

BOARD OF ZONING APPEAL FOR THE
CITY OF CAMBRIDGE GENERAL HEARING
October 22, 2009 7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Member

Slater Anderson, Member

Douglas M. Myers, Member

Thomas Scott, Member

Christopher Chan, Member

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P R O C E E D I N G S

(7:00 p.m.)

(Sitting Members: Constantine Alexander, Slater Anderson, Thomas Scott, Christopher Chan, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call the meeting to order. And as is our custom, we're going to start with the continued cases. And the first continued case we're going to call is No. 9838, 657 Cambridge Street.

Is anybody here on that matter?

(No response.)

CONSTANTINE ALEXANDER: No one here yet.

(A discussion was held
off the record.)

(7:00 P.M.)

(Sitting Members: Constantine Alexander, Slater Anderson, Thomas Scott, Christopher Chan, Douglas Myers.)

CONSTANTINE ALEXANDER: Okay. The next case I'm going to call is 9793, 15 Crescent Street.

Is anyone here on that case?

(No response.)

CONSTANTINE ALEXANDER: That's okay. In the sense, I will, for the record, this is a continued case heard and, therefore, we need the five persons who sat on the case the last time to be here tonight. Unfortunately, two of the five are not here, cannot make it tonight. So we don't have a quorum for that case. So we're going to have to continue the case no matter what, whether or not the people are here.

They've been advised, right, Sean?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: They know

that we're continuing it. What date would you propose we continue it to?

SEAN O'GRADY: They say December 3rd.

SLATER ANDERSON: I'm on that case. December 3rd? I believe that that will work for me. Let me just check real quick.

CONSTANTINE ALEXANDER: Brendan, you're on that case?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: What about Tad and -- who's the other person? Tim.

SEAN O'GRADY: Tad and Tim are both scheduled for another continued hearing on that night and so presumably they will be here.

CONSTANTINE ALEXANDER: Why don't we say December 3rd.

The Chair moves that this case No. 9793 be continued until seven p.m. on December 3rd.

All those in favor of continuing the

case on that basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Would you ask the petitioners to change the sign to indicate the new date.

(Alexander, Anderson, Scott, Chan, Myers.)

(A discussion was held
off the record.)

(7:05 p.m.)

(Sitting Members: Constantine Alexander, Slater Anderson, Thomas Scott, Douglas Myers, Christopher Chan.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9836, 160-162 Hancock Street.

Is there anyone here wishing to be heard on that case?

MARK BOYES-WATSON: Good evening Mark Boyes-Watson from Boyes-Watson Architects, 30 Bow Street, Somerville.

SAMUEL BROOKS: And I'm Sam Brooks. I'm from Wayland, Hampshire Road in Wayland.

CONSTANTINE ALEXANDER: All right. You're here before us seeking a variance. Now the petition is a variance to relocate stoops from the left and right sides and to change the stoop configuration, as well as to enlarge a third floor deck in line with side yard setback.

In fact, are you still going with that

full relief or are you going to
withdraw -- cut it back a little bit?

SAMUEL BROOKS: Cut it back.

CONSTANTINE ALEXANDER: Cut it
back?

SAMUEL BROOKS: Yes.

CONSTANTINE ALEXANDER: So the deck
is off the table so to speak?

SAMUEL BROOKS: Yeah, off the table.
I have read the comments of the neighbors and
I just feel that we can do well -- we can do
fine without -- so I'll withdraw that.

CONSTANTINE ALEXANDER: Okay.

SAMUEL BROOKS: And the other, the
other stuff, I can't get in the door without
it.

CONSTANTINE ALEXANDER: Okay.
We're going forward with a variance for the
stoops as I've mentioned already. And why do
you need a variance? Just for my -- I had a
little trouble working through the files as
to why you need a variance for the stoop.

I'll ask whoever, but it's -- what's the basis for the variance?

SEAN O'GRADY: The stoops are in the setback.

CONSTANTINE ALEXANDER: They're in the setback?

SEAN O'GRADY: Yes. And so while fenestration are windows and doors are a Special Permit, we just overlooked the fact that they're stairs and steps and they're not.

CONSTANTINE ALEXANDER: So you have side yard setback issues?

MARK BOYES-WATSON: Yes, so, you know, it seems that the code provides that stoops be allowed beyond the setback line. But -- so, in a Res. C-1 which is here, you would be allowed to normally project that stoop as of right, but it's considered, although it's not written per se in the zoning code, if its facade from which it comes is non-conforming. That's why we got hiccupped

by this. We actually were here before just for the doors and the windows which is just a Special Permit. But apparently if the stoops were in that same thing where it's non-conforming, it requires the variance. So here we are again to put the stoop in front of the windows and the doors. But we've already got permission to move. So it's kind of a simple, a hiccup that we missed and Sean picked up.

So, actually this is a little illustration.

CONSTANTINE ALEXANDER: Same plans you have in here, right?

MARK BOYES-WATSON: Exactly the same. So this is an existing condition. Before we started construction, actually there were stoops here and here already (indicating). But we did some major reconfiguration of the interior, got permission to move the windows. And what we need to do is get out of this door and this

door (indicating). And so the stoop ever so slightly moves. They're still just stoops to get you out and down to the patios. So that hasn't changed. But they now coordinate -- this door, we already have permission to put this door here (indicating). But the stoop, in both cases this bay is non-conforming although this facade is conforming. This is a non-conforming facade, so here we are. And actually this facade, to these little stoops -- there's one in the middle right now and it's split into a two. So, we want to do two. It's actually 9.8 feet to that porch. So, for two inches we actually are in for those stoops as well. In other words, they barely -- they're virtually conforming now. But since we're here, put them all on the drawing. So it's these four stoops. And that there was one here, one here, one here before (indicating). I think now that we don't have the upper deck, that's it.

SAMUEL BROOKS: That's it.

CONSTANTINE ALEXANDER: Simple.

For the record, you have approval from the Mid-Cambridge Historical Commission?

MARK BOYES-WATSON: We do.

CONSTANTINE ALEXANDER: And that's in the files?

Questions at this point from members of the Board?

Is there anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

The Chair will point out we do have in our files the approval from the Cambridge Historical Commission. It's actually the Mid-Cambridge Conservation District Commission.

There are letters in the file regarding to this petition, but all of them are related to the deck that was originally proposed. So

there's no reason to read them into the record in my judgment.

Comments from members of the Board or are we ready for a vote? I think we're ready for a vote.

The Chair moves that the Board make the following findings:

One, that a literal enforcement of the provisions of the ordinance would create a substantial hardship to the petitioner. Such hardship being there's no way of getting into the doors that we allowed you to relocate the last time around per a Special Permit.

That the hardship is owing to circumstances relating to basically the land, the structures, the structure itself and where it sits on the land. It is a non-conforming structure sitting in a setback, and so the addition of these steps require a zoning relief.

And that there would be no substantial detriment to the public good. We're talking

about very minor relief. Relief that really allows the structure to be used in accordance with the plans we approved the last time. Essentially that's it.

The variance will be granted on the condition that work proceed in accordance with the plans submitted by the petitioner prepared by Boyes-Watson Architects. They are numbered 00, 01, 03, 05, 07, 09, 11 and 12. The first page of which has been initialed by the Chair.

MARK BOYES-WATSON: Mr. Chairman.

CONSTANTINE ALEXANDER: Yes.

MARK BOYES-WATSON: I think that you'll find we're doing that little reverse thing where if you turn the page, the intermediate numbers do they appear? Sorry about that.

CONSTANTINE ALEXANDER: You're just saving paper that's all.

MARK BOYES-WATSON: It's just so you can see the before and after side by side, but

it gets us every time.

CONSTANTINE ALEXANDER: Okay.

I'll go back. It's pages numbered 00, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11 and 12.

It being noted as part of the variance that the variance relates only with respect to these plans to the stoop's configuration and location and not to the enlargement of the deck as originally contemplated by these plans, but that's been withdrawn by the petitioner.

All those in favor of granting the variance on the basis so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Anderson, Chan, Scott, Myers.)

(A discussion was held
off the record.)

(7:10 p.m.)

(Sitting Members: Constantine Alexander, Slater Anderson, Thomas Scott, Christopher Chan, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will once again call case No. 9838, 657 Cambridge Street.

Is there anyone here wishing to be heard on that matter?

SUSAN THEUS: Hi. That's me.

CONSTANTINE ALEXANDER: Hi.
Please come forward.

SUSAN THEUS: I didn't know if you guys wanted me to bring pictures or if they had given you everything I sent in.

CONSTANTINE ALEXANDER: Well, first let's start, you have to give your name and address for the stenographer.

SUSAN THEUS: Oh, hi. Okay. My name is Susan Theus. My last name is spelled

T-h-e-u-s, 1534 Dorchester Avenue in
Dorchester, Mass, 02122.

CONSTANTINE ALEXANDER: Okay. The
case we have before us involves -- you want
a variance for a sign?

SUSAN THEUS: Yes.

CONSTANTINE ALEXANDER: And it's
not clear to me, and hopefully you can help
me, and maybe other members of the Board can
as well, exactly to what extent does your
proposed sign not conform to the Zoning
By-Law? So, why do you need a variance? I
think there's too much signage on the front
of this building.

SUSAN THEUS: Correct.

CONSTANTINE ALEXANDER: How much is
too much? Do you know? We have nothing with
dimensionals. And nothing with specs and
drawn to scale.

SUSAN THEUS: Sure.

CONSTANTINE ALEXANDER: So I
couldn't figure anything out.

SUSAN THEUS: Well, it looks like the width of the building is 21.5 feet. And from what I have we're allowed 24 square feet of signage.

CONSTANTINE ALEXANDER: On the front of the building, right?

SUSAN THEUS: Correct. And I think what we are requesting from memory because I don't have it with me, is something along the lines of 40 square feet of signage.

CONSTANTINE ALEXANDER: And this is your new sign plus the Vellucci sign?

SUSAN THEUS: Correct. Plus the Vellucci sign.

CONSTANTINE ALEXANDER: Not counting the signage in the window? There's a plate glass window on the front, right there.

SUSAN THEUS: It is counting the vinyl lettering window.

CONSTANTINE ALEXANDER: So you have including that window?

SUSAN THEUS: Correct.

CONSTANTINE ALEXANDER: So, you're looking at for relief almost twice as much signage on the front of this building than our Zoning By-Law permits.

SUSAN THEUS: Right. But there are only -- we're only looking to add six square feet. There's already 34 square feet there and it's been there for over 30 years. We don't want to move that around. That's why we're asking to just add our logo on the building so that our customers can find us.

I understand that the Planning Board wanted us to try and find something that was a little bit more conforming. And I spent a lot of time on this trying to make it conforming because I didn't want to have to go through this process. But upon further investigation doing that with my sign company, who is a very good sign company, they're well respected, they do very good work, they told me that this large, the

Vellucci lettering that's put up on the building that takes up the whole 20 square feet that we're allowed, if we were to cut that off, the brick that's behind it, will have aged differently and it will leave what we call a ghost image behind it. And then there will be holes in the brick facade that would be near impossible to repair and it would look terrible. It would really junk off the building. In addition to the fact that Vellucci is kind of really an identifiable name with that part of Cambridge and the city in general and that building, we kind of wanted to preserve that, preserve the historical integrity of the building and not touch it. And also not make it look bad by cutting it all off. So instead of doing something that's proportional with what they already have with doing 50 percent signage and 50 percent signage, we just put our small logo over on the side. Our logo, the only thing to add is less than 25 percent of what

the total would be. So we're not looking to be even. We're just wanting to put our signage up so our customers can find us. And we also steered away from putting our name up in big letters and tried to scale it down by just doing the logo. So maybe that would be easier for them. But really all we're trying to do is get seen and enable our customers to find us. We're not trying to do anything crazy here.

CONSTANTINE ALEXANDER: Let me, since you referenced the Planning Board letter, let me read it into the record. And also for the benefit of other members, they may not have seen it. The Planning Board has written to us, a letter, a memo dated September 24th regarding this matter and it says: This proposal to add additional signage to the facade of the building at 657 Cambridge Street compounds what already is an unfortunate circumstance of excess signage. It is the Board's view that the applicant

should consider redesign of all of the signage on the building, existing and as proposed in this application, rather than simply adding the new sign to what already exists. It is very likely that by stepping back and thinking more comprehensively, all of the necessary identification for the business enterprise at the site can be accommodated with a coordinated sign design that would be closer to the area limits imposed by the sign ordinance.

Well, speaking for myself and only for myself, I must say I'm sympathetic to what the Planning Board is saying.

SUSAN THEUS: Okay.

CONSTANTINE ALEXANDER: That building is just over signed.

SUSAN THEUS: That was our first approach was trying to do something that fit in, because like I said, we didn't want to have to go through this process and we wanted to be conforming. But like I said, when we

went to our sign company, he said that that would just make it look awful and really junk it up if we tried to pull those letters off.

CONSTANTINE ALEXANDER: Well, the issue is it more awful to have even more signage on the front or this awfulness of removing the other sign and see what's underneath?

SUSAN THEUS: That's why we tried to stay as small as we possibly could with that signage. Again, just doing the logo instead of putting our name up and trying to be 50/50 and have just as much of our name there as their name there.

CONSTANTINE ALEXANDER: How would that be? Your sign is much smaller than Vellucci.

SUSAN THEUS: Yeah, it's much smaller.

CONSTANTINE ALEXANDER: How you getting 50/50?

SUSAN THEUS: Well, no, I mean

instead of saying well, we want 50 percent to be our signage and 50 percent to be their signage, in order to keep the building from looking junky and cutting it off and doing half and half, we just said, okay, we'll leave what's there, there. And then do ours as small as we can, but big enough to where people can find us if they're looking for us. The sign doesn't jump out at you and you're not going to notice it if you're driving by. But if you're looking for your insurance agency because you have a claim, you can look around and you'll be able to find us this way. And we just thought that was the best way all around in terms of not junking up the building. That's also really important to the owner of the building that we leave his sign there. It's been there for over 30 years, like I said. So this was just the best compromise we can come up with. Even though it doesn't really, you know, give us all the fairness of having half of it be our signage,

it just looks the best, we think, and really preserves the building the best that we could.

CONSTANTINE ALEXANDER: By the way, we'll talk further about this. Anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: Let record note that no one wants to speak on this matter.

Comments, questions from members of the Board?

CHRISTOPHER CHAN: So, the building is divided in half in terms of occupants right now?

SUSAN THEUS: It is. It's not --

CHRISTOPHER CHAN: In terms of square footage.

SUSAN THEUS: -- structurally built in half, but yes.

CHRISTOPHER CHAN: But that's the approximate square footage?

SUSAN THEUS: Yeah, we have two --

CHRISTOPHER CHAN: And you're renting half? And how long have you rented that half?

SUSAN THEUS: I think we've been there for about three years.

CHRISTOPHER CHAN: And you have no sign up -- up till now you have really no sign?

SUSAN THEUS: No sign, no. We were on Mass. Ave. for ten years and had signage there, had a sidewalk sign -- a permitted sidewalk sign. And then we, you know, just with the economy and everything, kind of scaling down, we decided that either we were gonna have to lay off a couple of people and keep that office or keep our people and combine the two offices. And we just decided that the people were more important, so we got rid of the second office and combined everyone over at the Vellucci office. So....

CHRISTOPHER CHAN: Combine. So you were already at that space before you combined?

SUSAN THEUS: We own both agencies.

CHRISTOPHER CHAN: I see.

SUSAN THUS: We own H. Levenbaum and Vellucci.

CHRISTOPHER CHAN: I see.

SUSAN THEUS: Correct.

SLATER ANDERSON: But you don't own the building?

SUSAN THEUS: But we don't own the building. Mr. Vellucci owns the building. We purchased the agency from Mr. Vellucci a couple years ago. We wanted to keep his people and his agency. We didn't want to let go of that --

SLATER ANDERSON: But he doesn't have an interest in the insurance -- the business, the insurance company?

SUSAN THEUS: Not anymore. He did for a long time.

SLATER ANDERSON: So the signage on the exterior of the building, you -- all of the signage --

SUSAN THEUS: That was his original signage.

SLATER ANDERSON: All of the signage, you guys technically control that now from a business standpoint?

SUSAN THEUS: From a business standpoint I would say, yes. But I would be lying if I said it didn't really matter to Mr. Vellucci if we messed with his signage. We're trying to keep him happy, too. You know, it's his building and it's been up there for a long time and it's a big name around here. And, you know, we want to try to take that into consideration, too. I think it looks good. It's been there forever.

SLATER ANDERSON: Well, my only additional thought is with the variance process and the Zoning By-Law, the reason Zoning By-Laws came into practice of use was

because of a desire to have some conformity and reduction of nuisance to the community. And signage -- a nuisance like certain other sort of things might be, you know, a risk to the health and welfare of the community. It's, you know, it's not as compared to certain things that the zoning governs. But the point I think of the regulations is when something like this occurs, it's an opportunity for the city to engage in improving the visual aspects of the community. So, I -- that's what the Planning Board's message is. Now let's -- this is why we have these regulations to fix a situation like this. We're not saying you can't have signage. We're just saying we want to do it in a way that's going to bring more conformity to signage across the city. So in that way, I concur with you as being sympathetic with the Planning Board's goals on this.

SUSAN THEUS: I understand that. And again, that's why, that was our first

approach is trying to stay within all those regulations. But when it really came down to it, when we looked at our options, it was either stay conforming and have it look awful, or add our extra sign, leave it the way it is, and have it look --

SLATER ANDERSON: I'm not convinced that it will look awful. The sign company's opinion about what it might do to the building, I'm not sure that -- I mean, buildings get changed a lot. But....

CONSTANTINE ALEXANDER: Just one more time, Chris brought up some very important points that it seems to me. One is your whole business in that building is yours. I mean, you own the Vellucci Agency you own your own agency. No. 2, you've been in that building for three years without a sign other than the Vellucci sign. And the notion of trying to redesign the facade, so you get two signs, the signs that are more in keeping with our zoning ordinance.

SUSAN THEUS: I'm sorry, maybe I wasn't clear. We've owned -- we have worked with the Vellucci Insurance Agency for about three years. But the Levenbaum Insurance Agency just moved into that office in August.

CONSTANTINE ALEXANDER: Oh, okay. I misunderstood you then. I thought you said you were in --

SUSAN THEUS: I'm sorry.

SLATER ANDERSON: You owned Vellucci for three years?

SUSAN THEUS: Correct. We just moved in there in August.

CHRISTOPHER CHAN: So you've been without a sign for three months?

SUSAN THEUS: Right.

CHRISTOPHER CHAN: Not for three years?

SUSAN THEUS: Yeah.

CHRISTOPHER CHAN: That would be a pretty tough business. I agree with both of you. It seems difficult, especially with

all the signs and the fact the zoning came in later that the last one then is penalized so greatly. Especially in a situation where at least that they have the control over Vellucci. But in a lot of the cases they're just a tenant --

SUSAN THEUS: We don't fully.

CHRISTOPHER CHAN: They don't have control over anything. And in fact, while we say they have control over the Vellucci name, the landlord is Vellucci. So they don't really have, you know, you may have to get approval from him to do the sign and he may say no. Right?

SUSAN THEUS: We tried and he did.

CONSTANTINE ALEXANDER: Excuse me. Did you ask him to tell him we want to remove your sign or we want to reduce the size of your sign?

SUSAN THEUS: We asked him if we can come in and redo the sign, making it smaller and combining both. And he said, you know,

I really rather you not because it's been up for so long, 30 years. That's when we brought our signage experts in. And we also had facade experts looking at the brick. We also have a building that's been in Dorchester for over 80 years, and we had the same issues. And we've seen what happens when you try to cut that lettering off and the brick behind it, it doesn't look good at all.

CHRISTOPHER CHAN: I understand your point, but I would have to say that, you know, that's pretty tough for the last person in to, you know, when the code changes and now the signage is no longer, you know, they get what's left over. In this case six square feet versus 20 some for the other person. So.... you know, six square feet, I'm willing to say yes to that even though I agree with the Planning Board that we would probably want to redo the whole sign. But in this case I have a feeling it's going to take a long time for that to happen if it can ever happen.

CONSTANTINE ALEXANDER: Anybody else have comments?

THOMAS SCOTT: Yes. I think it's an opportunity to correct the problem, the visual problem with the Vellucci sign. However, I hear what Chris is saying and I kind of agree with what you're saying, Chris, in that this sign is so small relative to the overall sign, that, you know, I think the impact is really not there for me in terms of being worse than what it is currently. So I think the condition is relatively the same after you put in your logo sign. So I guess I kind of tend to say, okay about it. What do you think?

DOUGLAS MYERS: I don't see the new sign.

CONSTANTINE ALEXANDER: That's the new sign here. Let's let them talk about it. You don't have any dimensions with the sign.

SUSAN THEUS: I thought I included that with my packet. I'm so sorry if I didn't

give you that. I would have brought hat in. I know it's six square feet. So, I'm assuming it's three feet high by two feet wide.

CONSTANTINE ALEXANDER: That's right. That's six square feet.

SUSAN THEUS: Maybe give or take a little.

CONSTANTINE ALEXANDER: While they're looking at this further, but a thought, and Chris will probably throw something at me. But another thought is to continue this case to allow you to go back to Mr. Vellucci and say, listen, the Zoning Board has got problems with what we want to do and gee, can't you maybe let us redesign the sign? And, you know, we have to, you have to come back some other time and maybe it's what the other Board members want but I throw that out.

SUSAN THEUS: I did get the response. I actually called and spoke with

Les Barber and he let me know what the response was. And I actually talked to Mr. Vellucci today about it. And he said, oh, yeah, that's really tough. He said, you know, I got to say I'm really not thinking that that's something that I would be willing to do. So we really did try. And like I said, again, all we're really trying to do is get seen. We're not trying to do some big obscene --

THOMAS SCOTT: Can I ask a question? You're taking the insurance agency letters and moving them underneath here?

SUSAN THEUS: That's actually an old photo. Those insurance agency letters were already moved and that's where they are now.

THOMAS SCOTT: They're already there now?

SUSAN THEUS: So they just tried to --

THOMAS SCOTT: Oh. They're just in front of that pole. Did somebody put them

there?

SUSAN THEUS: Yeah, since they had an old photo that's just what they did to show what it looks like now.

THOMAS SCOTT: That's what it looks like now? And if they're that big, they seem to be bigger than the letters that were there.

SUSAN THEUS: They're actually the same letters that were moved over. I think that must just be the type face that they used.

THOMAS SCOTT: I guess what I'm wondering could "insurance agency" be in one line and be in smaller letters, a smaller font, just to underscore "Vellucci" as opposed to being this thing that kind of grows over the whole facade. Somehow condense it a little bit so it's a little more linear.

SUSAN THEUS: Perhaps.

THOMAS SCOTT: That kind of acts independent of this logo.

CONSTANTINE ALEXANDER: And when

you move the insurance agency wording from here to here, it doesn't make the building look junky as you say?

SUSAN THEUS: That was done a while ago.

CONSTANTINE ALEXANDER: The building looks fine now. You couldn't tell that the letters have been moved. I've seen the building.

SUSAN THEUS: I don't know. I wasn't, I wasn't around yet when those were moved so --

DOUGLAS MYERS: I think that's a --

SUSAN THEUS: -- I can't say.

DOUGLAS MYERS: The question has a good deal of logical force.

CHRISTOPHER CHAN: The issue is that Vellucci doesn't want the sign changed. And it's not their fault.

CONSTANTINE ALEXANDER: No, I know.

CHRISTOPHER CHAN: So you penalize them because he doesn't want to change.

SUSAN THEUS: I think at the end of the day we're just trying to change as little as possible of that building while also getting seen. And we've done that in the most modest way possible.

CHRISTOPHER CHAN: Their leverage is they can say we have to move because we don't have a sign. That's all the leverage they have.

CONSTANTINE ALEXANDER: That's the only leverage they have.

SLATER ANDERSON: I'm sympathetic to Vellucci's longstanding as a business.

THOMAS SCOTT: Why do you have to have both, this and this?

CONSTANTINE ALEXANDER: The sign in the plate glass window as well as the sign on the building?

SUSAN THEUS: That's always been there. But if that's a problem, that would be easier to remove than the big letters on the building.

THOMAS SCOTT: All I'm trying to look to do is simplify. I think if you can simplify the design a little --

CHRISTOPHER CHAN: Do you think you can get him to agree to remove the one in the window?

SUSAN THEUS: The window signage? Sure. I don't think that would be nearly as difficult --

CHRISTOPHER CHAN: That's six square feet.

DOUGLAS MYERS: Can you put your sign in the window?

SUSAN THEUS: We really would like to have our sign up on the sign banner area if possible. We just feel like that's the easiest way for it to be visible.

CHRISTOPHER CHAN: I mean, would you guys agree with it if we said they can get rid of the one in the window and replace it with the other one?

CONSTANTINE ALEXANDER: I can go

along with that.

DOUGLAS MYERS: I definitely would. To me it would reduce the clutter. And that's the major problem.

CHRISTOPHER CHAN: We're about the same as we were before. I think it's going to be easier to do that than to get the words "insurance agency" or make them smaller.

CONSTANTINE ALEXANDER: Right. Ready for a motion?

SLATER ANDERSON: Are you okay with that proposal?

SUSAN THEUS: Sure, that would be great.

CONSTANTINE ALEXANDER: Okay. When I make the motion, it's going to be basically you can put a sign on the facade of the building no more than six square feet at the approximate location that you've shown on this drawing and on the condition that there would be no signage at all in the plate glass window. It would be just a plain window.

SUSAN THEUS: Okay.

CONSTANTINE ALEXANDER: That's what we're talking about.

SUSAN THEUS: That sounds good.

CHRISTOPHER CHAN: And just remove the one that's there essentially.

CONSTANTINE ALEXANDER: Which one?

CHRISTOPHER CHAN: Remove the sign in the plate glass window.

CONSTANTINE ALEXANDER: Yes.

Remove the sign in the plate glass window and not put a new one up.

SUSAN THEUS: That allows us to get seen, so I would be amenable to that.

CONSTANTINE ALEXANDER: The Chair moves that the Board make the following findings:

That a literal enforcement of the provisions of this ordinance would involve a substantial hardship to the petitioner. The hardship being that the petitioner needs a means of identifying its presence in the

building by virtue of a sign on the facade. And that the current signage which causes the problem is not within the control of the petitioner, but within the control of the landlord of the building who has indicated that he or it is not in any way interested in changing the signage on the facade of the building relating to the Vellucci Insurance Agency.

That the hardship is owing to the size of the structure. It's a structure that is not very large, that requires signage, and it is also a pre -- it's not a non-conforming structure, maybe non-conforming as to signage now. Quite possibly the signage that's on there right now was put on the building prior to the requirements of our ordinance today for signage on buildings or size of signage.

And the relief can be granted without substantial detriment to the public good.

That although the building will be

cluttered, the signage nevertheless, given this location on a busy commercial thoroughfare, given the fact that there are no protruding signs or illuminated signs, that the impact on the community is not sufficient to cause substantial detriment to the public good.

The variance would be granted on the condition that the signage that's to be added to the facade of the building be no greater than six square feet and located approximately where it is shown to be located on this piece of paper submitted by the petitioner. It's entitled proof No. 030409 and it's initialed by the Chair.

And on the further condition that the signage that now exists in the plate glass front of the building, plate glass window on the front of the building be removed, and that no new signage replace it so the plate glass window becomes a pure window with no signage in it.

All those in favor of granting the variance on this basis say "Aye".

(Aye.)

(Alexander, Chan Anderson, Scott, Myers.)

(A discussion was held
off the record.)

(7:30 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: Now we're going to turn to our regular agenda. And the first case -- we've got two cases actually to be called at the same time, case No. 9569 and case No. 9626, both relating to 45 Foster Street.

JOHN GREENUP: Good evening.

CONSTANTINE ALEXANDER: Good evening. You know the usual drill. State your name for the record.

JOHN GREENUP: I'm John Greenup at 45 Foster Street. We would like tonight to request a continuance to November 5th. At that point I believe we will be prepared to hear the case.

CONSTANTINE ALEXANDER: Right. You have another petition that we're going to hear at that time?

JOHN GREENUP: Yes.

CONSTANTINE ALEXANDER: And depending on what we're going to hear, these two may become moot.

The Chair moves that these cases be continued until --

BRENDAN SULLIVAN: Gus, the public.

CONSTANTINE ALEXANDER: Oh, I'm sorry. You're right. Thank you, Brendan.

Before we vote on the continuance, is there anyone here who wishes to speak on the continuance?

(No response.)

CONSTANTINE ALEXANDER: No one wishes to be heard on this matter. So, I think we should continue to the last item of business on that date, because then we'll have heard your other case first.

JOHN GREENUP: Yes.

CONSTANTINE ALEXANDER: So the Chair moves that these two cases be continued until the last item of business on November 5th? You're looking at me with a strange

look.

SEAN O'GRADY: No.

CONSTANTINE ALEXANDER: November 5th. On the condition that the petitioner sign a waiver of notice, which he's doing right now. And on the further condition that the two signs advertising these hearings, both of which have been washed away basically from the rain.

JOHN GREENUP: We got new ones.

CONSTANTINE ALEXANDER: Change the date on the sign of the hearing to November 5th. Then you'll have three signs?

JOHN GREENUP: Yes.

SEAN O'GRADY: Gus, I'm not sure when they're scheduled in the night, so maybe if the language to continue these until after the close of --

CONSTANTINE ALEXANDER: They're like the second or third case that night and it's not the last item of business. You want to do it right after that?

SEAN O'GRADY: That's what I figured so neighbors and people can --

CONSTANTINE ALEXANDER: Okay. That's a good suggestion.

I want to amend that motion to be the hear the continued cases immediately following the case brought by the petitioner which we will be considering as part of our regular agenda on November 5th.

All those in favor of continuing the case on that basis, say "Aye".

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Sullivan, Anderson, Scott, Myers.)

(A discussion was held off the record.)

(7:45 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair call case No. 9848, 77 Prentiss Street. Is there anyone here wishing to be heard on that case? Please come forward.

The floor is yours.

ATTORNEY JAMES RAFFERTY: Thank you. Good evening, Mr. Chairman, Members of the Board. My name is James Rafferty. I'm an attorney with the law firm of Adams and Rafferty. With me this evening is Colleen Court. Colleen is a law student and doing an internship in land use at the offices of Adams and Rafferty and here to observe.

CONSTANTINE ALEXANDER: I hope we're not going to discourage you by watching us perform here.

COLLEEN COURT: Not at all.

ATTORNEY JAMES RAFFERTY: And then

again any pressure, her career is dependent on the outcome here.

To my right is the petitioner. Yuval Y-u-v-a-l Ben-Dov B-e-n-D-o-v. And Mr. Ben-Dov's architect, Samir.

SAMIR SROUJI: Srouji.

ATTORNEY JAMES RAFFERTY: Want to spell that?

SAMIR SROUJI: Samir is the first name. Last name is Srouji S-r-o-u-j-i.

ATTORNEY JAMES RAFFERTY: This is an application that seeks some GFA relief to allow for the construction of two dormers onto a two-family dwelling on Prentiss Street. It is a home that's recently been acquired by Mr. Ben-Dov and his wife. The third floor is accessible. It has two rooms in it, but the windows for the rooms are at either end, and it has a significantly sloped ceiling. The second floor of the apartment has about 700 square feet, and part of their redevelopment plans would be they'd like to

be able to locate two bedrooms on the second floor. And the floor plan would show that the first floor would simply contain the kitchen, the living room and the dining room. This would be two bedrooms and a bathroom. It has a GFA increase of approximately 115, 116 square feet. Represents a slight increase in FAR from the house admittedly already over from about 1.0 to a 1.06.

CONSTANTINE ALEXANDER: And the district is 0.75.

ATTORNEY JAMES RAFFERTY: 0.75, correct.

One of the things that I was quick to advise Mr. Ben-Dov was that he should demonstrate near complete adherence to the dormer guidelines. Through the work of his architect, I believe they've achieved that both in terms of setting the dormer back from the ridge edge and bringing the dormer sides in, and not having the length of the dormer exceed more than 15 feet. He has gotten to

know his neighbors. Exchanged in some outreach with them. One neighbor has -- that he spoken with has sent him an e-mail which said he could share it with the Board. His other neighbors have expressed support, but indicated they would not be prepared or inclined to come to the hearing this evening.

So, the hardship is related to the size of the house. It is a small house. It sits on an exceptionally small lot. It's a rather modest expansion of the living quarters. It is a style of expansion that's consistent with what the guidelines allow for. It does represent an increase, but that increase is certainly, when you look at the size of the lot, at the end of the day the building itself for a two-family dwelling still only a 2,000 square foot building. So I don't think it represents a -- something that's out of character in terms of the context of the scale of the street. And our hope is that because there is no change in the character nature of

the apartment, it will be a home for Mr. Ben-Dov and his wife and daughter. He's recently moved to Cambridge and is hoping to be able to -- he's already begun some internal renovations, and he would love to be able to finish off the first floor in a way that make it liveable and usable.

CONSTANTINE ALEXANDER: Sir, these are the plans?

SAMIR SROUJI: Correct.

CONSTANTINE ALEXANDER: Are these the final plans? Because if we were to grant relief tonight, Mr. Rafferty knows this, but I'll say it for your benefit, it would be on the basis that you proceed in accordance with that's plans. No changes. If you do, you have to come back -- your clients will have to come before our Board.

SAMIR SROUJI: No, these are the final plans.

CONSTANTINE ALEXANDER: These are the final plans.

Any questions at this point? Let me ask if --

SLATER ANDERSON: I just have a question. It's not that relevant. But I haven't been by this house, but there's a picture of the blue house in the file. Is that the house?

YUVAL BEN-DOV: Yes.

SLATER ANDERSON: It does show two existing small dormers on the third floor right now?

YUVAL BEN-DOV: There are two houses one next to each other --

ATTORNEY JAMES RAFFERTY: I think -- that could be the photo where you Photo shopped in -- he Photo shopped in the dormer.

SLATER ANDERSON: I'm confused. I mean, it doesn't really -- I mean, it's the issue of consistency with what the plans shows. But there's photo -- here it is.

ATTORNEY JAMES RAFFERTY: No, I

apologize. That's actually misleading.
That -- there was an attempt to Photo Shop and
it didn't come out correctly and I may have
submitted the wrong --

SLATER ANDERSON: So those are added
in, those two --

ATTORNEY JAMES RAFFERTY: Yes.

SLATER ANDERSON: -- like small shed
dormers.

ATTORNEY JAMES RAFFERTY: Right.
Those don't exist.

SLATER ANDERSON: They don't exist.
They weren't on the architect's plans. Fair
enough.

ATTORNEY JAMES RAFFERTY: Very
observant.

CONSTANTINE ALEXANDER: All members
of this Board are very observant.

ATTORNEY JAMES RAFFERTY: I didn't
mean that exclusively to Mr. Anderson. Some
of you -- I should get PR work for the great
things I say about this Board.

CONSTANTINE ALEXANDER: Like I said before, flattery will get you everywhere, Mr. Rafferty.

SLATER ANDERSON: They're consistent with the guidelines and that's what we often look for, so I'm pleased with the plan.

CONSTANTINE ALEXANDER: Let the show, I think I asked, but let ask one more time. Is there anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

I can keep this in the file, Mr. Rafferty?

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: An e-mail actually addressed to the petitioner. "Dear New Neighbors: Thank you for the note of introduction. I'm glad to hear that you're renovating the house at 77 Prentiss Street,

and can imagine that dormers would be necessary to include two rooms and bath on the third floor. I will support you in this for the Zoning Board meeting if I make it there on Thursday. Please take a copy of this e-mail to the Zoning Board in case I do not."

The rest is just general chit-chat. So there's a letter of support in the file. I don't believe there's anything else in the file, no.

Comments from members of the Board?
Ready for a vote?

When you're done.

THOMAS SCOTT: Okay. Are there three dormers being added?

ATTORNEY JAMES RAFFERTY: No. Two.

DOUGLAS MYERS: Take your time.

CONSTANTINE ALEXANDER: I'll give you a chance to look them over before I make a motion.

THOMAS SCOTT: Okay, now I get it.

BRENDAN SULLIVAN: Is it part of the

plan to keep the railing at the third floor level the way it is now?

YUVAL BEN-DOV: Keep the what?

SAMIR SROUJI: On the rear.

BRENDAN SULLIVAN: On the rear?

SAMIR SROUJI: On the rear.

There's no plans to change that.

BRENDAN SULLIVAN: I guess maybe in a perfect world I would have pulled that in a little bit, but that's not necessarily --

ATTORNEY JAMES RAFFERTY: I didn't see it. I'm having trouble envisioning it. There's a railing? Is it in the photo? Is there a suggestion? We're open to all kinds of suggestions. If we described for a perfect world.

BRENDAN SULLIVAN: Just to pull it in so it doesn't overhang the building.

(A discussion was held
off the record.)

SAMIR SROUJI: If the plan, the stair is in the rear of the building, I want

to make sure that there would be room enough for a landing.

ATTORNEY JAMES RAFFERTY: Is there a stair going up there?

CONSTANTINE ALEXANDER: If I may, I'd like to suggest this is not a perfect world. And I think once you start fooling around with the drawings --

ATTORNEY JAMES RAFFERTY: We'll take that suggestion. I appreciate that. I now -- I didn't --

BRENDAN SULLIVAN: It's a point of consideration. That's all. It's not before us. It's existing.

ATTORNEY JAMES RAFFERTY: I think it's a good suggestion and I will pursue it with Mr. Ben-Dov. And I would imagine if it can be accommodated, it will be implemented.

CONSTANTINE ALEXANDER: And I'll incorporate it in the motion to allow some leeway.

ATTORNEY JAMES RAFFERTY: Thank

you.

CONSTANTINE ALEXANDER: Okay.

The Chair moves that the Board make the following findings with respect to this petition:

That a literal enforcement of the provision of the ordinance would involve a substantial hardship to the petitioner. Such hardship being, we're talking about a building that is relatively small in size, particularly for a two-family house. And one that needs additional living space to best use the structure.

That the hardship is owing to circumstances relating to basically the shape of the building. It's an older building, and more particularly the size of the lot.

And that substantial detriment to the public good would not occur if we were to grant relief. The relief being sought is relatively modest in nature. It is a slight

increase only in GFA.

And also further that the proposed relief which is involved with construction of dormers complies to the city's dormer guidelines.

The variance will be granted on the condition that work proceed in accordance with plans submitted by the petitioner prepared by -- I'm not going to try to pronounce your name, I'm sorry. The architect whose name has been previously given. They are numbered A-01, 02, 03, 04, 05, 06, 07 and 08. Provided that -- and the first page which has been initialed by the Chair. Provided that with respect to the railings shown on the elevations on the plan dated or numbered A-07, that these railings may be modified not to increase their size, but to decrease their size to make them more in line with basically the roof line of the building.

All those in favor of granting the

variance on the basis so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

ATTORNEY JAMES RAFFERTY: Thank you very much.

(Alexander, Sullivan, Anderson, Scott, Myers.)

(A discussion was held off the record.)

(8:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9849, 38 Avon Street. Is there anyone here on that petition? Please come forward.

For the record, will you please give and spell your name for the stenographer and your address, too, please.

PATRICK HIGONNET: My name I'm Patrick Higonnet H-i-g-o-n-n-e-t. And I own and live at 32 Avon Street in Cambridge.

CONSTANTINE ALEXANDER: Thank you.

LARRY SIEVER: Larry Siever, 38 Avon Street.

MUIREAN GLENMULLEN: Muirean M-u-i-r-e-a-n Glenmullen, Four Channing

Circle.

MARK BOYES-WATSON: Mark Boyes-Watson, Boyes-Watson Architects, 30 Bow Street, Somerville.

CONSTANTINE ALEXANDER: Before we get into the merits of the petition itself, I just want to, for the record, state that the Building Department received a phone call from someone complaining that the notice, the sign that was posted was not particularly visible to people and notice was not sufficient or may not be sufficient. I would report for the record that as Chairman, I went by and viewed the property. I saw a sign prominently displayed in the front window right to the -- as you face to the front of the house, to the right of the front door. In my opinion the sign is eminently visible and compliant with the sign by-law. Not sign by-law, with the requirements of signage in our Zoning Ordinance. So I'm prepared to go forward with the case on the merits. I see

no problem. Do any other members of the Board have any different views?

BRENDAN SULLIVAN: My only thought is as I stood on the sidewalk and looked in that window.

CONSTANTINE ALEXANDER: Yes, right, the only window in the front.

BRENDAN SULLIVAN: That it might be -- I didn't have a tape with me. But if I stood here and measured to that window, I'm wondering if it's beyond the 20 feet, No. 1. And, No. 2, whether or not it was really clearly visible. You -- well could you read the lettering on it?

CONSTANTINE ALEXANDER: Yes, I could.

BRENDAN SULLIVAN: You could. Okay.

MARK BOYES-WATSON: It's 19 feet. I think -- well, the survey says 19.1 feet.

CONSTANTINE ALEXANDER: I'm just saying to my eye, I didn't measure it, but it

looked like you were okay.

BRENDAN SULLIVAN: 19 feet what, to the --

MARK BOYES-WATSON: 19.1. If you look at the survey, it seems to call that out to the setback from the street.

BRENDAN SULLIVAN: Can I see that?

MARK BOYES-WATSON: Yes, sure.

BRENDAN SULLIVAN: All right.

CONSTANTINE ALEXANDER: Brendan, are you ready to go forward? Okay? Yes. Mr. Sullivan indicates go head.

BRENDAN SULLIVAN: I guess my -- and not to converse on this case. And, again -- Sean's not here. We'll talk about it later. It's nothing to do with this. I guess this signage probably, again, should be a little bit more legible. I know it says 20 feet, but it really should be on the face of the building or something, but that's another issue.

CONSTANTINE ALEXANDER: Most people

do put them inside the front -- not most, but many people keep them inside.

BRENDAN SULLIVAN: To keep them out of the weather.

CONSTANTINE ALEXANDER: To keep them out of the weather. But something we can talk about later.

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Why don't we turn now -- I think we're ready to go to the merits of case.

Mr. Boyes-Watson, let me just frame it. You're looking for a variance for various relief. Basically to relocate or reconfigure an existing dormer, enclose an existing conforming porch. That porch is on the side of the building.

MARK BOYES-WATSON: I don't think that requires relief actually.

CONSTANTINE ALEXANDER:
Reconfigure fenestration as noted. Convert from a single family to a two-family, and

convert existing parking garage space to gross floor area. This is a little bit unusual in terms of where the garage -- to me anyway -- where the garage is now and that garage is going to become living space.

MARK BOYES-WATSON: Right. And so actually, just to summarize, again, the relief. This is -- this is a Residential B Zone would allow two dwelling units except for the provisions of 5.26 that asks if you do have two dwelling units, that you comply to parking, open space and gross floor area. In this case the house -- you know, the house can be non-conforming, but those three things are supposed to be conforming for an as of right conversion. And if you don't have that, you're supposed to come here. In this case the existing house is already excessive for gross floor area. It also does not conform to the open space requirements for Res B. It inarguably does or doesn't conform for the parking, but there's only one

single-family house, but it does conform to the single-family part. And what we -- and the kernel of what we're doing here is that, that's -- the biggest thing is that we're switching to a two-family. And in order to do that, we're actually staying entirely within the envelope of this historic building. The building sits on Avon Street, has a series of very fine houses on the street. And the idea is just to stay within it and restore the house. But what we're trying to do when we do it, too, is make sure that we have, actually from our point of view, really good open space for the domestic use of those units. And so what we're doing is reorganizing that parking. Right now the lot is -- this is the, this is the diagram of the parking -- there's -- a driveway comes in and gets access to this part of the carriage house.

SLATER ANDERSON: Can I interrupt for one second? Just a clarification we want

to make in the file. This says proposed site plan on it. Do you propose an existing or --

MARK BOYES-WATSON: That makes it hard. This one is existing. Thank you very much.

SLATER ANDERSON: Yes. Thank you.

MARK BOYES-WATSON: That is existing.

So basically you can see that what happens in order to get to here, this basically, this garden becomes maneuvering space for vehicles. So you'll see that the footprints stay the same in each of these. But when you get to the proposed, what we're planning to do is get the two spaces here, this allows us to get a garden for a front unit and a rear unit.

CONSTANTINE ALEXANDER: Sorry. I was doing something else. Do it one more time.

MARK BOYES-WATSON: Yes, I can do it one more time. When we started here --

CONSTANTINE ALEXANDER: I'm with you there.

MARK BOYES-WATSON: What we did here was we get the two side by side spaces.

CONSTANTINE ALEXANDER: Right.

MARK BOYES-WATSON: We have like a front unit and a rear unit. And this front unit gets to have this, you know, access to open space, and as does the rear unit. So both now get open space. So that what happens is that we go from non-conforming to open space, to conforming to open space. So what we do though as we, as we reuse the back of the building, we actually gain GFA, so that shows up in the dimensional form as an add to the GFA. It's all within the structure, but it turns up -- because the garage does not -- an old garage, an existing garage doesn't count as GFA. So -- but as we use it for something, then it is. So basically that's the major thing. There is one minor other change that does require relief.

SLATER ANDERSON: Quick question. What's the darkened green represent versus the lighter green?

MARK BOYES-WATSON: Paths and patios.

SLATER ANDERSON: And the surface of the --

MARK BOYES-WATSON: Well, usually we use either brick or bluestone. It's not defined here. And I think it's probably bluestone.

SLATER ANDERSON: That's outside of your open space calculation, those dark green --

MARK BOYES-WATSON: Well, actually they're always lay permeable, and the Zoning does allow us to count those as long as they're certain parameters. I think they actually may have been excluded by the looks of this, because we actually take care to represent the thing. I actually think we could have counted more of that, we didn't.

So it's probably a little bit better for open space than what it shows.

SLATER ANDERSON: Probably so.

MARK BOYES-WATSON: But I just wanted to point out -- so, and just for those -- I usually start with photographs. But the -- this is the house from the street. And then this is a bay on the side of the house that actually we're removing in order to get the second parking space in and get a five-foot setback from the side yard lot line for that parking space. So you see that?

CONSTANTINE ALEXANDER: Yes.

MARK BOYES-WATSON: And then as you come back -- so these are views as you go. This is the view down the side. Here's that porch (indicating). And here's the back of the carriage house. I got more shots of that. This, this set of photos is speaking with more to the nature of that driveway and how it comes all the way down the side of the house. So you start at the street here -- oh,

no, beg your pardon. So this is starting at the street (indicating). And here you're walking to the back of the lot (indicating). Here you can see that carriage house and here's a view looking all the way back towards the street (indicating). Okay?

So, but I just was trying to get to the other element of relief which is that -- it's illustrated on these two boards.

If you go up to the third floor plan, which is the attic of the front building, which is the only third floor element, there's an existing dormer here (indicating) that just to do with the way our plan is working, we want to relocate to the middle of the structure. So we're basically taking this -- you're not allowed to relocate non-conforming GFA without talking to the Board. So, but we are here relocating this dormer from here to here (indicating).

CONSTANTINE ALEXANDER: Dormer size the same?

MARK BOYES-WATSON: It's the same, and actually we're moving it further up the roof so it's less than an intrusive dormer than the one that's there now.

CONSTANTINE ALEXANDER: How does it comply with the dormer guidelines?

MARK BOYES-WATSON: It's actually significant. It's probably I think about seven-foot, six wide and well beneath the ridge. And it's the only dormer on the roof.

So there is something that changed. We have windows -- if you go on through your book, you'll see these, the before and after elevations. So here you've got the two side elevations (indicating). And here you have the front and rear elevation (indicating).

The front elevation is basically, you know, we're going to restore this building. So basically this is the historic fabric kept. The new storm windows. The only thing driving us here is to restore this building. We're not changing the building.

And actually one of the reasons we're doing it this way is so we can restore what's here.

Actually, I just want to count that with some neighbor input. We did in the last week and filed on Monday, so changes to the side elevation. This is an elevation that's virtually zero lot line to the neighbor. And we had actually removed a lot of these windows, partly in discussion with them. But it was starting to become a blank facade. So some of the near abutters wanted those windows put back. What we've done here is put them back. I think we're only removing one window now. Is that it? Something like that.

SLATER ANDERSON: It looks like two actually.

MARK BOYES-WATSON: There's one here. One here (indicating).

SLATER ANDERSON: One there in the back of the house.

MARK BOYES-WATSON: And we're

shortening this because we have a kitchen there.

SLATER ANDERSON: All the way in the back.

MARK BOYES-WATSON: Yes, that one there. And just that change was in discussions with the neighbors. So actually, that doesn't require relief.

CONSTANTINE ALEXANDER: Questions from members of the Board at this point?

Is there anyone here wishing to be heard on this matter?

PATRICK HIGONNET: Right. Well, I live at --

CONSTANTINE ALEXANDER: 32 Avon.

PATRICK HIGONNET: -- 32 and 38. Both date to 1854.

CONSTANTINE ALEXANDER: Speak up, please.

PATRICK HIGONNET: They're both built in 1854 by a man named Saunders who is quite well known at the House of Harvard

chaplain, a splendid house. It was built by him, and I think also the rectory for the Christ Church. So, you know, it's not a famous architect, but it -- so this house is in very bad shape. I mean, some of the stuff, you have the feeling that it's going to be raining inside the roof. And, of course, the idea that this house should be destroyed, and I mean it's in terrible shape. So I'm sort of sympathetic to the idea of restoring it. However, for the very reason that -- these are lovely old houses, and any change to the outside seems to me to be too bad. I mean, if you know Avon Street, the Avon Hill is all kind of really splendid houses, and that's never gonna change, okay. But Avon Street has apartment houses on it. It has --

CONSTANTINE ALEXANDER: A school.

PATRICK HIGONNET: -- a school on it. And so it's not an endangered street, okay? But it really should have architectural transformation. So the idea

of removing the bay window, we have one just like it, and part of the charm of the house. And I, I, I can't be sympathetic to the transformation removing the bay window. And so, again, the driveway -- see, the driveway makes a big difference because our house -- we have two parking spaces there way back. You basically don't see them from the street. And then I'll read to you the description of the house that's between 32 and 38. "Between the two houses is a garden that leads back to an all but invisible house of the same period." Okay? So the -- our driveway and currently the driveway of this house are so configured that you don't really see the cars. I mean, and in fact, the current arrangement at 38, it's superior to ours because our houses are -- cars are on the street. If you looked for them, you can't see them but where? If you looked for them, they're tucked inside. This would affect the feeling of the street, see?

Now, there's, again, in this threatened neighborhood these two houses kind of -- the two houses, these two plus the one that's at 42-44 which was built in 1849, kind of anchor the whole thing, see? And then between us and Martin Street is a great big five-story house. And then at the corner of Linnaean Avon Street is another big apartment building. So these two houses, for a variety of reasons, really to my way of thinking shouldn't be altered.

And then the idea of turning it into a two -- building a two apartment houses. I heard the price to pay for restoring this house, I guess I could live with it, but I don't think it's a good idea. We actually have two tenants in our house. That's the way we found it. And I kind of look forward to retirement and we're just going to get rid of one of the tenants. See, that is the more people you have, the more cars you have, the more transformations you have, the more the

character of the whole street is affected in a neighborhood that, as I say, has problems. It's very different from the rest of the street. So by in large I regret to say I'm very eager to see -- we thought about not seeing the house being repaired, doing something about it our own selves, putting in a -- I tell you it was such a big deal that we just didn't do it. But just to restore it as it was. So I'm mindful of the importance of restoring this building, but I really don't think it's in the interest, not just of the neighbors but of the street to go through this at this time.

CONSTANTINE ALEXANDER: Thank you. That's very heartfelt comments and I think very decisive.

Question now, did you get Historical commission approval?

MARK BOYES-WATSON: No, not in this area. I did bring -- I did bring --

CONSTANTINE ALEXANDER: I'm sorry,

not in this area?

MARK BOYES-WATSON: In other words, there's no commission that regulates this area.

CONSTANTINE ALEXANDER: How about the Historical Commission generally, the Cambridge Historical Commission?

MARK BOYES-WATSON: No, they don't have jurisdiction.

CONSTANTINE ALEXANDER: Have you consulted with the Historical Commission, get a point of view from them?

MARK BOYES-WATSON: Yes, we went to see Charles Sullivan as part of this. And, you know, we got the file. You know, this is fundamentally a restoration project with the exceptions of the things that I noted. And we are changing the fenestration on that facade that faces the driveway.

CONSTANTINE ALEXANDER: What I haven't heard is what did Mr. Sullivan say when you showed him the plans?

MARK BOYES-WATSON: Oh, he was, you know, content with everything we were showing him. Had no negative comment.

CONSTANTINE ALEXANDER: You didn't ask him for a letter of support or letter of advice to show to the Board?

MARK BOYES-WATSON: No.

PATRICK HIGONNET: I have a brief comment about that.

CONSTANTINE ALEXANDER: Go ahead, yes.

PATRICK HIGONNET: Avon Hill is a historical section.

CONSTANTINE ALEXANDER: Yes.

PATRICK HIGONNET: And when that came up, I volunteered to be on the committee. And then I was told well, no, it's not going to concern Avon Street. It's going to concern Avon Hill Street. Well, I don't live there so I bowed out. But see, the fact that Historical Commission doesn't not have jurisdiction of that, you're absolutely

right. I think that's a problem. I mean, it should, okay? Nobody is gonna build new buildings on Avon Hill Street. It just isn't going to happen. Okay? But this street already has apartment buildings. And so the problem of density on this street, it should be -- the street should be protected by the Historical Commission, but it isn't. I mean, the people on Avon Street have more pull and weight than the people on Avon Street. So that's the reason why it's not --

CONSTANTINE ALEXANDER: That's a problem you identified that we can't unfortunately solve.

PATRICK HIGONNET: I understand completely.

MARK BOYES-WATSON: Well, it has I think been addressed. There was a move to move the Avon Hill District into this district. And it actually was -- I don't think it was tabled or rejected. One or the other. So that has been -- so I actually did

bring, but maybe it's germane, it's just left and right side abutting pictures from the street. Just speaks to the parking and the sort of general nature of the street. We actually did the renovation at the -- there's one more driveway that we didn't take a photograph of at 46 -- 44-46 Avon. It similarly has two cars sort of in the same position that we're proposing as part of this project. So as you go down the street, you have these lovely houses. And I couldn't agree with -- I agree with everything you're saying. So you have these great big driveways on the left-hand side. On the right-hand side you have the school, and the school playground. And so I think in general what we're proposing here is not, not incongruence with the type of way the people have solved this problem. And for the same reason, because actually this street, there's very nice yards in the back. These are houses with yards. And that's precisely

the kind of idea that we have here, is that these are houses. These are sort of not apartments. These are houses with gardens. And so I think that the sort of attempt to be consistent historically, to renovate the building and restore it, these are all things that we have as goals as well.

CONSTANTINE ALEXANDER: I, again, just speaking for myself. I believe what you're saying Mr. Boyes-Watson. You are tried doing it in a sense an historically sensitive way. I still would have liked -- it's not your responsibility, but I would have liked to have heard from Mr. Sullivan, his views on this as to whether -- even what you're planning to do is in his judgment consistent with the historical nature of the street and the building. And we sit here, I sit here anyway, not knowing the answer to those questions. And I'm very sensitive to what you're pointing out. And I understand -- I

think you've done, in my judgment, a very good job in trying to maintain the historical nature of the building. But there is -- the parking is -- pushing the parking closer to the street does have an impact, no question about that. Because that street has -- every building has got long driveways. I've walked that many times. And the cars are way in the back. And now we're going to have them way in the street, or almost in the street, although Zoning compliant. I grant you that. I'm just meandering. But I wish I did have the input from someone from Historical, an unbiased historical approach from the street of this building before making a decision.

Questions or comments at this point?
Let me hear from the public first. Anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard.

We do have some letters in the file. Let me just read them into the record. There is an e-mail from a Kincade K-i-n-c-a-d-e Webb W-e-b-b. "I'm a neighbor of 38 Avon Street." Apparently he owns 23 Grey Street, Unit B. Grey Street?

MUIREAN GLENMULLEN: It's right behind.

MARK BOYES-WATSON: In back abutter.

CONSTANTINE ALEXANDER: In back abutter, thank you. Anyway, the owner of 23 Gey Street, Unit B. The e-mails says: I'm a neighbor of 38 Avon Street and I have reviewed the proposed plans for the house at 38 Avon. As the plans preserve the existing footprint and maintain the general character of the house, I support the application of Michael and Larry Siever to convert it into two townhouses. The plan to keep the cars closer to the street is especially welcome as the resulting increases open space, allows

for a large garden continuous with neighboring gardens."

We have an e-mail from George Whitehead -- George and Elizabeth Whitehead who reside at 42 Avon Street. "This is a letter in support of case 9849. The plans submitted by Michael and Larry Siever for a variance at 38 Avon Street. We are George and Elizabeth Whitehead, the neighbors abutting from the north at 42 Avon Street and have lived here for about 18 years. Our house looks across our narrow side yard, and 38 Avon Street is a major presence just out our windows. 38 Avon is a lovely house and designed to be a good neighbor to us. With our narrow side yard, the nearly blank north wall of the 38 Avon on the property line serves as a garden wall and actually enhances our privacy while giving as much of their narrow lot as possible for their use. The renovations planned does not change that at all. Under the proposed plan the bulk of the

building does not change. The carriage house space will become living space at the back of the property to allow for a second unit in the part of the structure which is at least used -- which is least used at present. All in all, the result appears to be a fine way to keep the feel of a lovely house while doing long overdo repairs and renovations which will prepare the house to fill the needs of modern occupants."

Let me ask you a question, Mr. Siever, do you plan to stay in this house if we grant relief or are you selling the house?

LARRY SIEVER: We're selling it.

CONSTANTINE ALEXANDER: All right. You're the petitioner in name, but you're not really the real party in interest in terms of the beneficiary of the relief. I take it you are?

MUIREAN GLENMULLEN: No.

CONSTANTINE ALEXANDER: I was wondering why you're hear.

MUIREAN GLENMULLEN: Larry and his brother Michael inherited the house, but they live far away. California, New York. So I'm the one who would oversee the work.

CONSTANTINE ALEXANDER: You're going to put the house on the market then, is that the idea?

LARRY SIEVER: Yeah. I mean basically we pointed out, it's not a place that can stay the way it is. And, you know, my brother and I considered all the options. And, you know, it's not -- it needs major, major work. Gutters -- I mean, my parents, 80s, 90s, you know, they obviously kept it up to a point, and many of the things probably observed happened after my mother's death. But obviously -- and I talked to my mother, in fact on the day of her death, about what we were going to do about the roofing. And we got an estimate for a hundred thousand. And she said to me, you know, I'm not going to live that long. I'm going to die soon.

She said, I'm not gonna put 80,000 -- you know, she was mindful that this -- in her lifetime was ending, and this house -- and then we obviously were left to sort out the options. We were also left to sort out all the papers. She told me before she would take care of it all, but the last day she said you and your brother will have to sort it out. So, I mean having to do that in a number of ways. Subsequently then of course we had some fallout of the gutters, and we had some just general deterioration. And it was clear that we could not, given our locations -- I'm in New York. So yes, I can come here. But occasionally I can come to this hearing. But we were not in a position to oversee the transformation of this house. That would have been different contractors, different -- I didn't feel -- I mean, if we're talking keeping true to the spirit of the neighborhood, I didn't think I could ensure that as an individual overseeing

people doing different kinds of work. So really we were left with either selling it as is, if you will, to presumably a developer. Because at that point, you know, we didn't think we would find anyone who was going to pay to do that much work. They basically, you know, want something a little spiffed up. So, the most recent sale, the house next to us, in fact, they did a lot of renovations but they were able to do that and then they were able to sell it. But -- so we felt, okay, we're going to need to look into getting this restored in a sensitive way, but in a way that somebody could take this on as a whole project. And to preserve and to make sure that it's not -- someone like me or my brother who lives in California, have to take this on. So actually, it was through George Whitehead who is a neighbor who I think referred us to Muirean who was I think very sensitive to the historical issues of the neighborhood, etcetera. And said look, the best way to do

this is to have two units. The possibilities of developing it as one unit were much more limited. The whole back garage space, essentially and the sort of attic area above it, were essentially unused and quite deteriorated. This option seemed to make the most sense from all points of view. Simply speaking the other options would be selling it probably to a developer where we -- who knows how that would go. Folks might have been involved or auction it. This seemed like the best alternative from our point of view, and it seemed like something that was, in fact, sensitive to the feel of the neighborhood. I really can't comment on the particulars of the bay window and architecture. I really left that in Muirean and the architect's hands. But I feel that they have done a good job and have been very aware, I know because one of the reasons that we had some confidence in Muirean is because in fact she did the Whitehead's renovation.

She did the renovations in Grey Street in the back, sort of a catty-corner. And she did -- and we saw a number of other places. And we thought that she did a good job in a way that preserved the historic feeling of the neighborhood. And so we felt confident in that regard. We didn't, we didn't really think -- I mean, we were looking at a renovation alternative. I mean, as I say the alternative would have been to sell it to some developer and then it's out of our hands. And some people suggested that's the way to go. But, you know, we thought this was a better option knowing that there are all sorts of, you know, issues, and that we have to go through the variance process and try to, as I think they tried to do, be sensitive to those suggestions of some of the neighbors. So, that's pretty much our -- where our thinking was.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: So it's your

presentation that you're going to retain ownership through the renovation conversion process up to then, in that you and your brother and/or would be the sellers of those two units, that's your presentation tonight?

LARRY SIEVER: Yeah, we are. We are now the owners.

BRENDAN SULLIVAN: Owners. And you're going to --

LARRY SIEVER: We just became owner.

CONSTANTINE ALEXANDER: And you're going to continue the ownership through the renovation project.

LARRY SIEVER: Yeah, we're going to continue the ownership and we have a partnership to develop --

BRENDAN SULLIVAN: The only thing going back through, and again, I'm getting over the hardship or difficulty to get over the hardship because --

CONSTANTINE ALEXANDER: Go ahead.

BRENDAN SULLIVAN: -- in the

pleadings it says the house is in serious need of renovation, which is sort of a self-induced hardship. And the cost of renovation require the conversion to a two-family house to make the project economically viable. You know, I mean and I don't doubt that it's more marketable as two smaller units than one large unit, but it's not impossible. Especially in that area, especially in that neighborhood. And without, you know again, it's the pleadings, the hardship comes down to dollars and cents. You know, peeling back all the layers of historic restoral and renovation, it basically comes down to dollars and cents is what I think drives the project.

MARK BOYES-WATSON: It's not like a case where we're zoned to be a single-family in a single-family zone.

BRENDAN SULLIVAN: That's beside the point.

MARK BOYES-WATSON: It's an

allowable use -- allowable number of units.

LARRY SIEVER: There was a choice and we could sell it, but we would not have renovated it at all. We would have sold it to a developer.

CONSTANTINE ALEXANDER: One at a time.

BRENDAN SULLIVAN: Because two units are allowed, doesn't say well, you should allow us to have two units.

MARK BOYES-WATSON: So, the thing that's interesting about this, right, I hear you. So, we could demolish the carriage house and put two units in as of right. Because the thing that's prevent -- the reason that we're here is out of the desire to maintain the whole structure as is, as the gentleman was saying. If we take down part of it, we would conform to GFA and we would be as of right, you see? And conforming to parking, open space, and GFA, we could do this. So the reason we're here it's more,

it's not so much it's more the expense to restore it which it is. It's more that if we want to keep this building as is, you know, with all of its sort of mid house, front house, back house kind of configuration, that we need your relief because otherwise we have to take a piece away.

BRENDAN SULLIVAN: If you were to take the carriage house down, then you would be left with the basic shell of the house and you could --

MARK BOYES-WATSON: Actually, the shell of the house and maybe the back house. And that would be an as of right project.

BRENDAN SULLIVAN: So in other words, you have options?

MARK BOYES-WATSON: We do. We have the option to remove parts of this project to make it conforming and then do it without coming here exactly.

CONSTANTINE ALEXANDER: Is the carriage house part of the original structure

or was that added?

MARK BOYES-WATSON: It's very old. I'm not sure exactly how old it is, but it's an old structure.

CONSTANTINE ALEXANDER: And you touched -- Brendan brought up a point I should have put on the record before. The issue that's before us is the FAR issue.

MARK BOYES-WATSON: Exactly.

CONSTANTINE ALEXANDER: And right now you're 0.64 because the garage does not count, if you will, grandfathered in a sense. And if we were to grant you relief you would go to 0.72. And the district allows 0.5/0.35 district. And I think you're absolutely correct, Mr. Boyes-Watson. If you did take down the carriage house, you would be conforming as to FAR and you could convert it as a matter of right.

MARK BOYES-WATSON: Right.

CONSTANTINE ALEXANDER: And that goes to the point do you have a hardship?

MARK BOYES-WATSON: Right. I think the question is to balance -- and I think it's consistent, whether you want to make exterior changes to this building or you don't. And if you don't, we come here. And it is actually, you know, it's a bit big. There is an alternative, but the one that's sensitive to the neighbors and to the historic thing, is to be here. That's --

CONSTANTINE ALEXANDER: I'm not sure that's a fair characterization. I mean, and I don't want to quarrel with you. And I don't think the neighbors, if they were shown the proposal that took down the carriage house, would say oh, no, no, we're opposed. I think they would support it as well.

MARK BOYES-WATSON: We'd have to see. We didn't actually go through this process.

CONSTANTINE ALEXANDER: I think this gentleman would be a support I suspect.

PATRICK HIGONNET: I might add that of course the repairs are voluminous. I know for a fact because we paid for it. And at one point we had a bulldozer in our basement to fix all the foundations under the existing building, and it has -- the nature of the building when we were doing all this work, we found the foundations to yet another building. So there was kind of a mift over the century and a half degradation of the building, okay? And -- but we kept the house as it is. I mean, we're now thinking of putting instead of the wooden railings -- and it's very -- we have a \$27,000 to put a 1850 type stove in front of it. These repairs are very, very expensive. But I'm living proof that some people who will do it. And so, you know, if....

CONSTANTINE ALEXANDER: Okay.

BRENDAN SULLIVAN: The other issue aside from the hardship, which again I'm not over the hurdle yet, but the other one is the

parking, which even though it's, you know, you put in two units, you need two spaces, you want to provide in the two spaces, you're not asking for relief for that. However, two spaces are not going to be enough that even though it meets the code, it meets the ordinance requirements, whoever buys the front unit and the back unit, are going to have more than one car. And I think the location of the parking plan is insufficient also, and bringing it closer to the street.

CONSTANTINE ALEXANDER: My only comment, Brendan, is that if we were to deny them relief and they tore down the carriage house, they can convert as a matter of right and the parking would still be where it is in their plans right now.

BRENDAN SULLIVAN: I don't doubt that. I mean, again, they have options.

CONSTANTINE ALEXANDER: They have options.

BRENDAN SULLIVAN: They have

options. I'm just not sure if the option before us is totally viable to me anyhow.

CONSTANTINE ALEXANDER: Comments by other members of the Board?

DOUGLAS MYERS: A question. When you proceed to sell the house, are you going to organize or structure the sale as a condominium or do you intend to sell it as a traditional two-family house and let the owner decide whether -- how he wants to -- he or she wants to proceed to treat the second unit as a rental and so on?

MUIREAN GLENMULLEN: I think the plan was to sell it as two condominiums.

DOUGLAS MYERS: So in that sense you are the developer? If you say you wanted to refrain from selling it to a developer.

LARRY SIEVER: Yeah.

DOUGLAS MYERS: Hence you are the developer?

LARRY SIEVER: Right. This way we have some control of the project and what the

outcome is. I mean, it's a risk, but our alternative was not to necessarily -- I mean, we talked this over. Our alternative was not to restore the house as a single building. Our alternative was to sell it presumably to a developer or it would not be a criterion for sale, but I think that would be a likely outcome. And then of course we, you know, we say good-bye to it and that becomes the province of the developer and whatever they need to go through. And that definitely was an option. We were not thinking that it was really going to be viable to restore the whole place. And we did talk to people and we looked into it. I mean, those were the two options that we considered, and we were taking this step towards making the two unit --

BRENDAN SULLIVAN: But what is the cost to renovate it? Again, when you peel away all the layers, it comes down to dollars and cents. So what is the cost to renovate

this or how much would it cost to renovate it into a single-family home? To restore it to liveable condition?

MARK BOYES-WATSON: I mean, you're probably familiar with the cost of square foot of construction and it's --

SLATER ANDERSON: 600 square feet, the living area?

MARK BOYES-WATSON: Living area.

SLATER ANDERSON: Gross floor area.

BRENDAN SULLIVAN: Times.

MARK BOYES-WATSON: Times some number between 2 and 3. So, you know, it's a lot of money.

I mean, I think that -- if you go down this street and you look, there aren't any single-family homes on this street. I mean, yours is not a single-family. There are no single-family homes on the street. This is a multi-family area. The house on -- the condominium. We've have talked with all of the neighbors and they're very comfortable

with there being that kind of ownership.

CONSTANTINE ALEXANDER:

Single-family and two-family is to me a little bit of a red herring. You pointed out you can have a two-family here by taking down the carriage house.

MARK BOYES-WATSON: By taking down the entire house. We could. These are all the things you're allowed to do. So from a matter of zoning, I want to sort of pass the zoning -- I mean, as a matter of zoning it could be, too, I think there is and I was wondering if I might suggest, I think there is a thing here where we're between the historic kind of layout of the house and saying let's say stay here and not. And I don't know, if it would be helpful to have Charlie Sullivan -- there isn't a certificate of appropriateness to be issued. But we could have him weigh in on this. But I don't want to do that if there's a problem with the FAR or whatever. So if the Board

could give guidance, I would have thought that it would be very sensible and fine. In fact, we would welcome talking to him. And if he'll write us a letter which is sort of slightly outside his normal protocol, but he could, then obviously that would be helpful with his comments and what he thinks about maybe the option to remove the carriage house and how the Historic Commission might view that. He might say, you know, you now have to apply and now you start to get into a time thing because you apply to the Historic Commission because you apply to them for the building. But we could get that from Charles. And maybe -- but I don't want to do that if you're all like this house is too big and you're making it bigger and blah, blah, blah. And if people agree that that's all that's going on here, which is that you're either trying to keep the whole envelope as it is or not, then I think that's something we could do, right? And I would welcome

that. I mean, that's not a problem. If I'd known, I should have done that.

CONSTANTINE ALEXANDER: I want to comment on that, but we haven't had -- Tom, I don't know if Tom wants to comment, but I want to give you a chance to comment on this.

THOMAS SCOTT: I like the idea of keeping the envelope of the house and restoring it and, you know, bringing the architecture, you know, kind of up to today's standards and restoring the building. And I'm definitely in favor of that. I think I would like to see that letter from Charlie Sullivan if that's the person, out of commenting on the facade and the changes in the facade and how appropriate they are or are not. And that's something that I would definitely want to see. But I -- I'm in favor of the restoration of the building as is. And I love the fact that you've kind of stayed within the boundaries of the footprint of the building. I'm not too enamored with

removing that bay, but I understand why you removed the bay. So I could live with that. But I'd like to see kind of his comments about how the fenestration has changed and whether or not that is historically accurate or appropriate for the structure.

MUIREAN GLENMULLEN: Real quick.
So I did --

BRENDAN SULLIVAN: Muirean, you may want to introduce yourself.

MURIEAN GLENMULLEN: I did.

BRENDAN SULLIVAN: You all set?

CONSTANTINE ALEXANDER: She did before, yes.

MURIEAN GLENMULLEN: I did speak with all of the neighbors. And it was extremely important to the neighbors that we were staying within the height and the footprint of the building. The people in the back, the people at the sides. You've heard from the Whiteheads, who are immediate abutters from one side. From Kincade in the

back. And there's a couple on the right-hand side who expecting a baby in kind of a hurry, but they did send this to Larry's brother and they're -- so they're the immediate abutters. So all three immediate abutters, you know, are rather happy with the plans.

CONSTANTINE ALEXANDER: Yes, but the point being that would the neighbors have any problem with the structure that it takes -- keeps the historical nature of the building as it is with the bay window, for example, but maybe you can't keep the bay window under any circumstances, but just reduce the size of the structure? I can't believe for a second, maybe I'm dead wrong, that you're going to have neighbors saying, "Oh, my God, if you take that carriage house down, we're going to fight this tooth and nail." I think they would say sure, now we've got more open space on the property. I don't know that's a you know a fair argument.

MUIREAN GLENMULLEN: Well, now I

should say that I did tell people what the alternatives were. You know, we had these sort of hour and two hour sort of sessions going over everything. I met with everybody individually. And I explained that we'd love their support to keep this or the alternative is we can alternative is we can do it and knock this down. And quite honestly nobody said Oh, I'd like you to knock it down.

CONSTANTINE ALEXANDER: But no one said if you knock it down I'm going to oppose it, but I'll support it if you do what you're planning to do.

MUIREAN GLENMULLEN: Right.

LARRY SIEVER: Well, I don't think anyone is going to fight it tooth and nail, if they do it. I think the question is, what would the preference be? I mean, one of the things -- and I'm not versed with all of the details, but I think it's been pointed out, every house along there is a multi-family unit. It's not that this is somehow

departing from the mode of the street. Your house is a multi-family unit. All of these houses have more than one. This is the only single house that I'm aware of.

MUIREAN GLENMULLEN: There's one other on the other side but further down.

LARRY SIEVER: All right, so the point is, I mean, maybe discussion on some points of the parking lot. But the idea of making it into two instead of one, if we keep the same architectural footprint and the exterior as much as possible, is not violating the spirit of the neighborhood. In fact, it's constant with it. In fact, insisting that this remain a single-family dwelling in that --

CONSTANTINE ALEXANDER: I think you're misjudging the comments of the Board. I think, as I said before, and I'll say it again, I think that one-family to two-family is a bit of a red herring in this case. The issue is not that. I think the first issue

is the historical -- preserving the best possible way the historical nature of the building, the architecture. And that's how I went down the path of getting Mr. Sullivan's views who I respect a great deal. But I must say as the discussion comes out, Brendan Sullivan made a very good point, from a pure zoning point of view, if you have alternatives, like taking down the carriage house, do you now have a hardship which is what we have to find to grant you the zoning relief? So that's a very perceptive point but it muddies the historical analysis a little bit. And that's where -- the fact the matter is that if you can do what you say -- and you can, just take the carriage house down. You have your FAR compliance. You can convert as a matter of right to two-family, you have a hardship.

MARK BOYES-WATSON: But it seems to me that the Board very -- I mean, you know, very often would take into account that

existing non-conformity and the existence of a building on a lot, we do it all the time, right? We say it's already here. We're going to work with it. In fact, the Board is here because so many houses don't conform to their lots. And what we say is that the historic fabric of Cambridge doesn't want to insist on the letter of the Zoning Code against the preservation of the city and the betterment of the people and the living to the 21st -- the Zoning Code is to enable us to elegantly inhabit our city even though our rules don't always comply with what we have already. It seems to me that this house perfectly fits into that category of things for which you are granted the authority to weigh -- and I hear that, Charles hasn't said I think this is a lovely building, I would love to see it and actually with those, that tripod on nature is one of the few left. He might say that. I don't know if he will say that, but he might. And then it will be even

more true that it will be sad and I think inconsistent for how the Board generally behaves for this Board to force its removal. Because I don't think you like to do that. You don't usually do that.

CONSTANTINE ALEXANDER: You're eloquent, Mr. Boyes-Watson, but you're not exactly accurate in terms of what the function of the variance is. The variance is here because we have a city-wide Zoning Ordinance which as applied city-wide to a city as diverse as Cambridge you're going to have some inequalities, some unfairness with respect to certain property. And the state legislature recognizes that, and the City Council recognizes that. And they create a variance procedure. And they say if we got -- if the Zoning By-Laws that apply throughout the city creates a substantial hardship to someone and other requirements are met, than the Board can change, vary -- that's where the word variance comes

from, vary the requirements of the ordinance. But you've got to show a substantial hardship. And do you show, I'm just asking, I don't know the answer yet. Do you show a substantial hardship when you have a perfectly viable alternative that allows you to have a two-family house and one that complies with all respects to the Zoning By-Law, but it's not the one you want to do. And I think the reason frankly you don't want to do it is because your plans give you a bigger structure to sell, makes the property more valuable. But is that our job here to make the property more valuable for a person in the city? I don't think so.

LARRY SIEVER: Again, I don't -- I'm not a life long Cambridge person in terms of -- but you're saying that it would not be sufficient if it were in the interests of the historical preservation of the footprint to grant a variance for that purpose?

CONSTANTINE ALEXANDER: Yes. We

can't -- we don't grant variances because -- that's not our function or our jurisdiction, because it will enhance the architecture or the historical nature of the building. We've got to find that there are special conditions affecting the property of the building that are unique to that property or building. That if we don't grant relief, there's going to be a substantial hardship to whoever is before us. And finally, that in granting the relief, we're not going to be in substantial derogation of the intent for our Zoning By-Law. We've got three standards we've got to meet. That's required by state law and it's embodied in our Zoning Ordinance.

MARK BOYES-WATSON: So maybe -- let me ask the question this way: What -- because there is another option that we haven't discussed. The option is that the cars go and park in the carriage house just like they always did. And would the Board

have any problem -- I don't like that project. I think it's much more asphalt or whatever the driveway material is. But were we to do that, would the Board still have problem converting -- in other words, we're not changing the floor area at all. Would the Board still have trouble with this conversion?

CONSTANTINE ALEXANDER: Speaking for myself I don't like us giving advisory opinions. Especially something --

MARK BOYES-WATSON: Respectfully.

CONSTANTINE ALEXANDER: I don't want to think about it. I want to see plans. I don't think we should be getting into that area. I for one would like, and it's only for myself, I know you want sort of some guidance from the Board before you go to see Mr. Sullivan, Charles Sullivan, not Brendan. And I would like to hear from Mr. Sullivan to see if he would give us some views. I'm still not ready -- I'm saying I'm ready to sign off

the zoning issue of substantial hardship, but I think I'd like to know in deciding that, I'd like to have the context and the benefit of Charles Sullivan's views. I don't know how other members of the Board feel.

BRENDAN SULLIVAN: No. Going back to your comment, all I would in response to of using the carriage house. The carriage house was meant for carriages. Whether they be horse-drawn carriages or motorized carriages. So if we're talking about historic preservation, than the carriage house could be used as a garage. Because again converting this to a two-family, there's going to be more than two cars coming out of that house. We all know that. There are -- the dynamics of a project like this, and I will go back to my usual spiel, is that the cost of the property is what you paid for it. And your cost is whatever. And I understand that you inherited it, but the value of the property, though, is not what you

pay for it but what you can do with it as of right. That's the value. The value, it does not necessarily mean the cost. If you're starting at a high number, and at some point when you sit down and start putting your pen to paper and you start doing the numbers, and then you decide whether or not you're going to convert it. It doesn't make sense to convert it, to renovate it, to restore it as a single-family home, it only makes sense to do it as two units because the two smaller units are more marketable. And that those two smaller numbers add up to a bigger number than you would if you were to sell it as a single-family home. But that does not -- so your cost basis doesn't necessarily equate to the value. The value is what you can do with that property as of right without coming to this Board. That's -- and, again, going back to your pleadings, you're saying it is an economic hardship not to convert this into a two-family, and I just don't buy that.

Absent of figures, because again it comes down -- again, we start peeling away the layers, and it's a gorgeous house that's being proposed, but when you start peeling all that down, it comes down to dollars and cents. That's what driving this project. Is it a viable project dollars and cents convert it to a two-family or to restore it and maintain it as a single? And the answer came back after running all the numbers, it's more viable having two smaller numbers which add up to a larger number. And that's my spiel.

SLATER ANDERSON: And that's my -- I'm, you know, I have conflicted feelings about it. I think it's a thoughtful plan, I think, your proposal. Frankly I'd like to see additional units in the city. I think it's good for the city. I'm not opposed for one or two conversions. But I do feel like it's this -- you know, this slippery slope that we tread on if people for pure

higher return purposes are coming to our Board for something beyond what, you know, they could get from the project by right. And that's, that's the slippery slope that is troublesome, but I wouldn't want -- frankly I'd like to see this plan implemented and not the carriage house knocked down and, you know, stay within the conformance of the zoning. That's where the zoning is imperfect. It's the hardship case. It's not, you know, what's the maximum economic viable plan? It's like is there an economic viable plan for this project? And it's -- you know, I work in real estate, it would be a highly desirable property as is, you know. Obviously renovating it in a proposal like this, gives it much more value. And I don't fault you for designing it that way. But to come before us -- to come to us -- and the other thing of it is the threshold is we're not reaching frankly in my opinion for the variances that you're asking.

So, I'm conflicted about the whole thing, I don't know. I just -- I don't -- the economic piece is the troubling part to me. And it's not about you guys. It's about the future and other cases.

LARRY SIEVER: I'm not clear on the point. Is the -- I know you said you couldn't predict or provide counsel. But I'm not clear, for example, if the carriage house were used for a garage, does that require a variance?

MUIREAN GLENMULLEN: No.

MARK BOYES-WATSON: No, but the conversion still would. That was really the speculative question I was asking. In other words, if you left everything else the same, in other words, and you didn't increase the floor area at all of this existing non-conforming house, would there still be a problem converting it to a two?

SLATER ANDERSON: Not for me.

CONSTANTINE ALEXANDER: Go ahead,

Doug.

DOUGLAS MYERS: I just want to add my comments after hearing from everyone on the Board. I think the Board is faced on the basis of the ordinance as written with a request for a variance that to me seems thin if not dubious. And I'm reluctant to vote for variances like that on the grounds that well, if we don't grant it, the applicant might do something worse as of right.

Especially where the architectural considerations here are not part of the structure of ordinances of the city. It is simply something that we care about, but it's not something that really, under the rules, should govern the decisions of this Board. So that everyone has right to say, even if we write to Mr. Sullivan and get an opinion from him in writing, it still leaves us, and me anyway, in a situation where I'm -- I really think the variance is thin. And the fact that you might do something worse as of right

is not grounds for me to approve the variance.

CONSTANTINE ALEXANDER: Let me say, let me make myself very clear, I made myself clear before and I'll do it again. I give no weight to the fact that you can do something worse, in Doug's point of view, as a matter of right. And to me, that's not what you're suggesting. I'm not about -- and you haven't done that. But others do that.

MARK BOYES-WATSON: I wasn't.

CONSTANTINE ALEXANDER: You would never do that. But nevertheless, that turns me off. The question I think before us is do we want to take a vote tonight? Or do we want to allow the petitioner time to rethink his situation and perhaps --

MARK BOYES-WATSON: But it sounds like we do need to both consult with Charles and consider what we're arguing for hardship. And I think we would welcome the opportunity if the Board would afford it to us to do precisely that. To better shape that

argument, it is clearly you're not convinced. And secondly, to get Charles's opinion. I think that would be very helpful. If you would allow us, we would like to do that.

CONSTANTINE ALEXANDER: I'm fine. And with the understanding, I think that at least with some members of the Board, whatever Mr. Sullivan, Charles has to say --

MARK BOYES-WATSON: That's not enough. I'm hearing that. So, I'm saying with those two components, and I hear the Board and I'm very grateful for the substantial input.

CONSTANTINE ALEXANDER: Is everybody in favor -- let me put it differently. Does anybody have a problem with continuing the case? It would be a case heard obviously.

BRENDAN SULLIVAN: I have no problem continuing it.

CONSTANTINE ALEXANDER: Why don't we continue this as a case heard. How much

time would you need? When would you like to have the case reheard?

MARK BOYES-WATSON: We could probably -- we're going to consult with Charles and sharpen our understanding of the hardship. So it wouldn't take us long.

CONSTANTINE ALEXANDER: What's the first time?

SEAN O'GRADY: December 3rd.

CONSTANTINE ALEXANDER: December 3rd? Is that okay?

MARK BOYES-WATSON: That's great.

PATRICK HIGONNET: I just have one little point. Maybe you can ask all the abutters if they would rather have a one-family house or a two-family house next to them. I personally feel that they would, all of them say, they would prefer to have a one-family house. And, again, I mean, sure I have two tenants, but if you put the two tenants together, it's three rooms. Do we have big rooms, and I live in the house. And

that was the point that was made. If my owner who both (inaudible), okay. But the way it's being proposed as two totally distinct apartments, again, if you were to ask the abutters whether they would rather have that or one unit, I think you might find a different answer.

CONSTANTINE ALEXANDER: Well, I'm sure if we do continue the case, you're going to have further dialogue with the neighbors.

MUIREAN GLENMULLEN: Yes.

CONSTANTINE ALEXANDER: I assume that. That's a good suggestion though.

DOUGLAS MYERS: Is it clear that we will -- you as Chair, would you want to see Mr. Sullivan's opinion in writing?

CONSTANTINE ALEXANDER:
Absolutely.

DOUGLAS MYERS: A letter in writing that fairly addresses the concerns that have been raised this evening.

BRENDAN SULLIVAN: And projects in

toto, including the parking and plan. And that would be in the file Monday prior to --

CONSTANTINE ALEXANDER: Right. If you're going to modify --

MARK BOYES-WATSON: Bring those drawings Monday prior to.

CONSTANTINE ALEXANDER: Monday by five o'clock prior to the hearing date.

Ready for a motion. The Chair moves that this case be continued until seven p.m. on December 3rd on the condition that the petitioner sign a waiver of notice for a time to reach a decision.

On the further condition that the sign in the window be modified to show the new date, December 3rd.

And also on the final condition that to the extent that as a result of this continuance, the plans be changed in any respect from what you submitted tonight, that the revised plans be in the public file building office no later than five p.m. on the

Monday prior. That allows you, sir, for example, to go see the plans, or any other citizens to go to the zoning office to see the plans in the office.

PATRICK HIGONNET: Thank you very much.

CONSTANTINE ALEXANDER: All those in favor of that motion, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: The case will be continued as a case heard.

(Alexander, Sullivan, Anderson, Scott, Myers.)

(Whereupon, a discussion was held off the record.)

(9:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair calls case No. 9850, 21 High Street. Is there anyone here on that matter?

Do we have a request, Sean?

SEAN O'GRADY: Yes, there should be.

CONSTANTINE ALEXANDER: Here it is, yes. The Chair will read into the record -- first of all, the Chair notes that no one wishes to be heard on this matter. But there is a letter in the file that says: Due to a posting issue, I request the next available hearing. Thank you, Theodore Van Sickle, who is the petitioner in this matter. It refers to case No. 9850.

When the is next sign -- and I should point out for the record that there is an issue as to whether the signage required by a Zoning Ordinance was posted for the sufficient number of days, and that's the reason why this case is being continued.

When will we continue it to?

SEAN O'GRADY: They were offered November 19th.

CONSTANTINE ALEXANDER: November 19th. It's a case not heard. We can do that. Okay. Because I'm not going to be here.

BRENDAN SULLIVAN: If it's going to go forward that night, I'm not available that night.

CONSTANTINE ALEXANDER: Other people are available. Tim and Tad. We'll continue it to the 19th.

The Chair moves that case No. 9850 be continued until seven p.m. on November 19th. Has the petitioner signed a waiver of notice?

SEAN O'GRADY: I thought he had.

CONSTANTINE ALEXANDER: Yes, he has. It's right in the file.

On the condition that the petitioner properly post the sign this time around with a new date indicated on the sign.

The Chair noting that the petitioner has already signed a waiver of notice for a time to reach a decision.

All those in favor of granting the continuance as moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Anderson, Scott, Myers.)

CONSTANTINE ALEXANDER: Before we continue, anybody here for 20 Sidney Street? I'm not going to call the case right now. But you're the petitioner. I was going to say we're probably going to continue this case. I wanted to send people home if they were here

for that case.

MALE AUDIENCE MEMBER: Thanks.

CONSTANTINE ALEXANDER: No one is
here anyway.

(9:05 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: Okay.

We're going to call case No. 9851, 102-104 Inman Street. Is there anyone here on that matter?

For the record, please give your name and address.

LENORE SCHLOMING: My name is Lenore Schloming. Lenore Monello Schloming. L-e-n-o-r-e, Schloming S-c-h-l-o-m-i-n-g.

CONSTANTINE ALEXANDER: And you, sir.

RALPH SCHLOMING: And I'm Skip Schloming. Formally Ralph Schloming. Legally.

CONSTANTINE ALEXANDER: And you're

bringing before us with a rather unique property.

RALPH SCHLOMING: Yes.

CONSTANTINE ALEXANDER: At least in my visual inspection of it. And you're looking for a variance to essentially connect, put a connecting addition which will convert two detached single-family dwelling units into a single-family dwelling. And then the front building, there's two buildings on the property, well, three actually. But the one now, the front will be converted -- you'll eliminate two basement bedrooms and basically put two units in there. So the number of units on the property are going to stay the same.

RALPH SCHLOMING: Yes.

CONSTANTINE ALEXANDER: Ten units today and ten units afterwards.

RALPH SCHLOMING: Yes.

LENORE SCHLOMING: Correct.

CONSTANTINE ALEXANDER: All right.

I hope I haven't stolen your thunder, but I just want to put the case --

RALPH SCHLOMING: No, you know? I don't know what thunder you wanted us to provide.

CONSTANTINE ALEXANDER: Why don't you tell us a little bit about what you want to do.

RALPH SCHLOMING: Okay. I have this. I don't know exactly what you have.

CONSTANTINE ALEXANDER: We have this. And this is important.

RALPH SCHLOMING: Okay. Does everyone have a copy of that? Okay. That's what I have. This is my copy of what I submitted. Yeah?

CONSTANTINE ALEXANDER: And as I warn everyone else, if we were to grant relief, it will be tied to this. So these have to be the final plans. There's no modifications.

RALPH SCHLOMING: That's right.

CONSTANTINE ALEXANDER: Or if you do, you have to come back before us.

RALPH SCHLOMING: Right. I understand. This is Inman Street here coming down the side, north up, straight up -- this is a driveway with some parking spaces that are existing (indicating). This is the historic house in front 1845. We did go before the Historical Commission, and we're making a minor modification to the porch entry here in the back of the house and that's visible from the street and they approved that. They have non-binding review for the back arrangement that we're doing, and they approved that with a recommendation.

This is a garage formerly that was converted in 1970 or so to a single studio apartment dwelling unit. This is a two-family built in 1969, 1970. What? A single-family. I'm sorry, it's a two bedroom. I said it wrong. I keep saying that wrong. It's a two-bedroom,

single-family dwelling behind it built in 1967 by her father Sparticle Monello. So our proposal is to connect these two structures together with a 204 square foot addition. And that's the -- other than converting, one unit to two here, that is the non-conforming or further non-conforming change to the property. It's 204 square feet. So there's -- what you should also have is, I mean, this is just to run you by the full project. This is the plan due of what's to happen. I don't know how well this is going to be seen. I don't have fancy foam board. This heavy dotted line right here is the connecting addition between this house here and the studio garage (indicating). And it really is not classifiable as sort of like standard living space like bedroom, living room, kitchen, bathroom. We call it an atrium. It has steps down to match, to blend the two levels of the house. I guess the garage is down a slab on grade, and this house

is lifted up about two feet above grade. I mean, this -- you know, these are just details of the plans. I presume it's not critical. The key thing is that we're -- this is pretty well nestled in. It's to my mind it's the thing that always strikes me about it is it's not terribly visible. It's hardly visible from the street. Is what will happen is in fact it's very gently sloping roof that's just going to be extended out over the garage here (indicating). This dotted line is the roof line right here (indicating). And....

CONSTANTINE ALEXANDER: Go ahead.

RALPH SCHLOMING: Okay. And so it's barely visible from the street. And so there's some elevation plans that were presented. This is the view from the street, but it's hardly, you know. This -- it looks -- there's just this little part here that is extended up from the back house. So that's, you know, that would be the view from the street. There would be a door -- some of

the windows are being reconfigured.

CONSTANTINE ALEXANDER: But you can see that from the street. Doesn't the other building right out in front of that?

RALPH SCHLOMING: It's not because this is the driveway.

CONSTANTINE ALEXANDER: Yes.

RALPH SCHLOMING: So you can see this and -- you can see this from the street.

CONSTANTINE ALEXANDER: Okay. You can't see to the left?

RALPH SCHLOMING: Yeah, this part is covered up. Yeah, you're right. You're absolutely right.

CONSTANTINE ALEXANDER: You mentioned you had approval from Historical. I don't see anything in the file from Historical.

RALPH SCHLOMING: Yeah, we do have approval from them. I presume -- I think I may have -- I think I may have the letter here. You want that?

CONSTANTINE ALEXANDER: Well, I don't want to interrupt your presentation. If you do have it, I would like to see it.

RALPH SCHLOMING: I'll see if I have it.

So, this would be the view from the driveway, the west elevation. This is the view from the north. One neighbor would see this and that. They could see just this little, a little change there. A filling in of the space between this structure and this structure (indicating), and so that would be what they would see.

And in the back, again, you can -- what they would -- this little bit of roof is the extension of the -- right up here. This little notch right up here, would be the extension of the roof over the garage in order to connect them. We're -- there's an existing roofed deck in the back which is right here (indicating). And we're enclosing that. We're just -- you know,

we're wanting to get as much living space as we can out of what's available and usable. And we're basically living with what we have. So that would be the view from the backyard. From the neighbors on Amory Street.

And this is the view from the south. And the building next to us on Inman Street is a lot line to lot line brick commercial building that what's right here is the garage portion of that building (indicating). It has one window that's -- you can't. Yeah, it's obscured type of glass. So they really can't see this. But it is the southern view of the house, so we maximized windows on this area where we will have a high ceiling because the roof is going up and we're stepping down to the level of the garage in this atrium area. And so then this is the deck in the back that's being enclosed.

CONSTANTINE ALEXANDER: And judging from the -- at least the outward physical condition of these buildings, are you going

to be able to just put an addition on without having to rebuild the buildings themselves? They're not in good shape.

RALPH SCHLOMING: We're not in good shape. We're planning to go down to the studs inside and out. In other words, siding goes off --

CONSTANTINE ALEXANDER: So you're going to rebuild --

RALPH SCHLOMING: Well, we're not rebuilding it. We're going back to the framing. And keeping the framing, the exterior framing and the interior walls are mostly changed.

CONSTANTINE ALEXANDER: And not changing obviously the footprint of the building?

RALPH SCHLOMING: No, the footprint stays exactly the way it is. And the foundation will stay.

CONSTANTINE ALEXANDER: For the record by the way, the zoning relief that you

need is by virtue of the addition you're going to increase the FAR from 0.79 to 0.81 in a district that has a max of 0.75. So you're slightly non-conforming now, and you're going to go slightly more non-conforming?

RALPH SCHLOMING: Right.

CONSTANTINE ALEXANDER: And also that the buildings are in setbacks. They're connected so you have setback issues too?

RALPH SCHLOMING: Right.

CONSTANTINE ALEXANDER: Those are the two reasons you're before us?

RALPH SCHLOMING: Right.

CONSTANTINE ALEXANDER: I to put that in the public record.

RALPH SCHLOMING: Right, right. I can probably take questions unless you have --

CONSTANTINE ALEXANDER: Questions from members of the Board at this point?

BRENDAN SULLIVAN: Well, it's the conversion of front building.

RALPH SCHLOMING: Excuse me?

BRENDAN SULLIVAN: The eight room building --

RALPH SCHLOMING: Sure. Let me -- yeah, let me -- actually, in the back of your plans here there's plans for dividing those two. I mean, the one large unit, the eight room unit into back, what we're going back to what they originally were until 1989 under rent control. We got permission then at that time to combine them from the rent control board. And they actually stipulated that if we moved back, we had to put them back to what -- and so we didn't like that at the time, but it turns out it's okay with our minds to go with that.

BRENDAN SULLIVAN: Before 1989 they were -- what was this?

RALPH SCHLOMING: They were two units. They were two units --

BRENDAN SULLIVAN: Prior to 1989.

RALPH SCHLOMING: Prior to 1989.

BRENDAN SULLIVAN: Rent control came along and said.

RALPH SCHLOMING: Rent control and said -- she was the owner and she said -- we were living in Maine at the time, and she wanted to move back in with, you know, our family.

BRENDAN SULLIVAN: To decontrol one of the units, one or both.

RALPH SCHLOMING: Well, both units would be decontrolled and then combined to one unit. And so a kitchen was taken out of one that we would now be proposing to restore.

BRENDAN SULLIVAN: So rent control allowed you to take the two units and be it one unit for your own personal use?

RALPH SCHLOMING: That's right.

BRENDAN SULLIVAN: So it's now basically a single-family.

RALPH SCHLOMING: Right.

BRENDAN SULLIVAN: Your proposal now is to move out of the eight room house --

RALPH SCHLOMING: Yeah.

BRENDAN SULLIVAN: -- move into the reconverted two out buildings if you will --

RALPH SCHLOMING: Right, right.

BRENDAN SULLIVAN: -- and then restore the main building back to its original two-family?

RALPH SCHLOMING: That's right. Well, yeah. It's --

CONSTANTINE ALEXANDER: More than two family.

RALPH SCHLOMING: There's eight units in the front building. So we're talking about it's a duplex divided in two sides we're talking about. We live on the first floor on one side of the house and half of the second floor.

CONSTANTINE ALEXANDER: Eight unit building?

RALPH SCHLOMING: It's eight unit building, it's mostly one bedroom.

CONSTANTINE ALEXANDER: It's hard

to --

BRENDAN SULLIVAN: We were having trouble with -- it says here eight room unit.

CONSTANTINE ALEXANDER: It's one eight room unit in a building with eight units.

RALPH SCHLOMING: Right.

CONSTANTINE ALEXANDER: And these are eight dwelling units --

BRENDAN SULLIVAN: Historically what was built?

CONSTANTINE ALEXANDER: -- it's not a rooming house?

RALPH SCHLOMING: No, not a rooming house.

BRENDAN SULLIVAN: When was the structure built originally?

RALPH SCHLOMING: 1848.

BRENDAN SULLIVAN: Okay. And it was built as a single obviously?

RALPH SCHLOMING: It was originally a duplex.

BRENDAN SULLIVAN: It was a duplex?

RALPH SCHLOMING: Yeah.

BRENDAN SULLIVAN: Okay.

RALPH SCHLOMING: And then it was subsequently divided into four units and then into eight. And then plus two in the back.

BRENDAN SULLIVAN: Downhill from then?

RALPH SCHLOMING: Yes. Actually, to describe this -- what happening in the main building. As I said, we live off the first floor half of one side, that's four rooms. Plus half of the second floor on one side which is two more rooms. Plus in the basement we later added actually two bedrooms in the basement. So that makes a total of eight units the two units in the basement.

LENORE SCHLOMING: Eight rooms.

RALPH SCHLOMING: What did I say? Eight rooms, okay. So the basement bedrooms we're proposing to put back to storage and as a basement. And then the first floor becomes

a separate unit, four rooms. And the second floor becomes a two room, one-bedroom apartment. The first floor would be --

BRENDAN SULLIVAN: So your attempt is to restore the building back to what it was initially built for and to take the two out buildings and make them viable and useful?

RALPH SCHLOMING: Right. As a larger single-family that would suit us.

DOUGLAS MYERS: And in the main house, leaving aside the back buildings, if the variance is granted, how many living units will there be?

RALPH SCHLOMING: Eight.

DOUGLAS MYERS: Eight.

CONSTANTINE ALEXANDER: And I would -- if we were to grant relief, I would propose that we limit -- we make it clear that you cannot have more than eight units in the front house. So the total number of units on the property will stay the same.

RALPH SCHLOMING: Right.

CONSTANTINE ALEXANDER: And also that those two bedrooms that are in the basement no longer can be used for living space.

RALPH SCHLOMING: Right, right. That's our understanding. That's what we're asking, yes.

CONSTANTINE ALEXANDER: Other questions?

Anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: No one wishes to be heard. Let me read into the public record. We do have some correspondence. We have a petition submitted by the petitioner. "Now come the undersigned who have chosen to make this statement regarding the application of Ralph and Lenore Schloming for a variance to add a 204 square foot addition at 102-104 Inman Street, Cambridge, Massachusetts. We the

undersigned -- sounds like the Declaration of Independence -- we the undersigned hereby declare our support for the application of Ralph and Lenore Schloming for a variance to add a 204 square foot addition at 102 and 104 Inman Street, Cambridge, Massachusetts."

Its signed by 14 -- roughly 20 persons. Not going to read into the record their names and addresses. But they are on Inman Street, Amory Street, which I take it is an abutting street. And also St. Mary Road.

RALPH SCHLOMING: Yeah.

CONSTANTINE ALEXANDER: Anyway, we also have a letter from a Megan M-e-g-a-n Brook who resides apparently at 103 Inman Street. "Wayne Barron and I have owned the house at 103 Inman Street since 1993. We have received your notice of public hearing for case 9851, a petition for variance sought for 102-104 Inman Street. We do not plan to attend. Our neighbors Lenore Schloming owner of 102-104 Inman Street and Ralph Skip

Schloming have shown us their plans for alterations at 102-104 and we have both signed a form on their behalf stating that we do not object to the changes they propose to make to the property. To that formal ascent, which will no doubt be presented at the hearing, I now add this letter to state that not only do we not have any objections, we believe that the cosmetic and fenestration improvements which are to be part of the renovations will improve the appearance of the rear house as seen from the street and will make it blend in better with the older buildings predominating here. We also look forward with pleasure to the restoration of the main house's facade to an approximation of its original appearance which the Schlomings have said will be part of the plan renovations. 102-104 is one of the four houses on this block of earlier design than most of the -- let me try that again -- 102-104 is one of four house on

this block of earlier design than that of most of our houses. And consequently of architectural significance. We would like to thank the Board for its careful procedures -- underscore that -- we would like to thank the Board for its careful procedures and thorough notifications concerning variances sought by our neighbors. The work of the Board is essential to the preservation of what makes Cambridge a desirable city to live in. Careful notice to those most concerned about changes to a street scape are an important part of open and responsive government."

Moving from I think the sublime we have a letter from Timothy D. Toomey, City Councillor. "I wish to express my support for the variance being sought by Lenore and Skip Schloming relative to their property at 102-104 Inman Street. The Schlomings hope to create a new single-family home by joining two existing structures. The owners will be

making this joint structure their primary residence as it will better suite, s-u-i-t-e -- better suite their need for a smaller living area. The apartment they currently occupy in the main building at 102-104 Inman Street will be divided into two units. By joining the two units into one, and dividing one unit into two, the number of units at this address will remain the same.

"Additionally two bedrooms in the basement of the main building will become storage reducing the overall density. The proposed changes seem minimal and provide a properly sized detached owner's residence for the property, increasing the chances of owner occupant not only now but in the long distance future."

We also have a letter from City Councilor David Maher, M-a-h-e-r. "I have reviewed the proposal and plans submitted to the Board of Zoning Appeals by long term residents Skip and Lenore Schloming, 102R

Inman Street. I find that the increased FAR for their proposed addition is a modest increase, just slightly over 200 square feet. The addition is located in the back and nestled between the two structures. It would connect in such a way that it is barely visible to any of their neighbors. This change would allow the Schlomings to move from their present oversized unit on the property to the renovated single-family in the back of their property. In addition, they're requesting that they combine the two units into one, and that they be allowed to divide their large unit into two units as it previously had existed. This would -- they would be swapping the location of units with the result of a zero net change with less density than at present. Their drawings suggest that the renovation would be a significant improvement over the present appearance of the property, and by keeping the Schlomings as owner occupants would in

turn benefit the neighborhood. I respectfully ask the Board of Zoning Appeals look favorably on Skip and Lenore Schloming's request." And that the sum and substance of what's in the file.

Do you have that Historical letter?

RALPH SCHLOMING: Let me see.

CONSTANTINE ALEXANDER: That looks like it might be it.

RALPH SCHLOMING: Yes, this is it.

CONSTANTINE ALEXANDER: For some reason we don't have it in our files.

The Chair will note that the petitioner has given us a Certificate of Appropriateness from the Mid-Cambridge Neighborhood Conservation District Commission. And the plans that they reference in there in the certificate are the plans you have before us tonight?

RALPH SCHLOMING: Yes.

DOUGLAS MYERS: What was the date of that letter?

CONSTANTINE ALEXANDER: October 15, 2009.

Comments from members of the Board?

DOUGLAS MYERS: My only comment concerns the plans, and I asked Mr. O'Grady this afternoon whether the plans were sufficient for him to enforce because they are simple.

CONSTANTINE ALEXANDER: I asked Mr. O'Grady the very same question. So great minds think alike. I was told these would be sufficient from his perspective. They are less than what we usually see for the plans we approve.

DOUGLAS MYERS: I just wanted to bring that to the attention of the Board.

CONSTANTINE ALEXANDER: Brendan, anything?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: Ready for a motion?

The Chair moves to grant a variance to

the petitioner on the basis of the following findings:

The Board finds that a literal enforcement of the provisions of the Zoning Ordinance would involve a substantial hardship to the petitioner. Such hardship being that we have an unusual lot with three structures sitting on it, two of which are not in good condition and are not particularly habitable given their small size. And that the -- and the risk of further deterioration to these structures, given their nature, is such that some relief has to be granted to make them collectively more inhabitable.

That the hardship is owing to circumstances relating to basically the structures themselves. The initial structure, the primary structure on the lot was built in 1848 or thereabouts. Other structures have been added since pursuant to apparently to Zoning relief that have been granted. But it is an unusual set of

structures that are not generally replicated in the zoning district, and that desirable relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of this ordinance.

The Chair moves that we find that this is true provided that the conditions, if we impose certain conditions on the relief being sought, would note that there is unanimous neighborhood support for the project. That there is a Certificate of Appropriateness from the Mid-Cambridge Historical Commission. That clearly that this project will improve the aesthetics of the lot and of the structures themselves.

But the variance would be granted on the condition that, one, that the work proceed in accordance with the plans submitted by the petitioner. I don't believe they're numbered. They're not. But there's 1, 2, 3, 4, 5, 6, 7, 8 pages, first page which has

been initialed by the Chair.

Second that the current two bedrooms that are in the basement of the primary structure no longer be used for living purposes, be it bedroom or otherwise. You can use it for storage but not for living purposes.

And, third, that the total number of units on the lot, which is now 10, continue to be 10. No sense would the relief being granted here allow you to have more than 8 units on this lot. Anything else?

BRENDAN SULLIVAN: Given the nature of the drawings which have been submitted, should there be any discussion or should the Zoning Specialist need some verification or clarification, would it be the sense of Board to allow the Chair of the Board to be the arbiter as to whether or not whatever is proposed complies with the spirit of what is presented here this evening? The point of that being, should there be a question and

you're sort of not wanting to make the call, that would you be comfortable and would you be comfortable to have, Sean, have you review whatever the issue is? I would be comfortable as a member of Board to delegate that to the Chair.

CONSTANTINE ALEXANDER: Thank you. Speaking for myself I would be comfortable doing it. I think there's always a question of legality, whether that's an improper delegation.

DOUGLAS MYERS: As far as the finality of our decision.

BRENDAN SULLIVAN: And, again, if you feel uncomfortable with that.

CONSTANTINE ALEXANDER: Only because from a legal point of view, not personally.

BRENDAN SULLIVAN: If it can be handled administratively, I guess the sense the Board would be allow to you do it administratively. If you're not

comfortable, than it would bring it back to the Board that's all.

CONSTANTINE ALEXANDER: That's fine by me. I don't know if it needs to be part of the motion.

BRENDAN SULLIVAN: I just throw it out.

CONSTANTINE ALEXANDER: I think to the extent that Mr. O'Grady has problems with the work as it goes forward, in terms of the compliance with these plans, given their nature, that he would consult with me and I'll make a decision. Whether you need to come back before us, whatever the problem is, or whether he and I can come to the conclusion that allows you not to come back before us.

RALPH SCHLOMING: Okay.

CONSTANTINE ALEXANDER: That's a good point. Okay. Anyway we should take a vote. That would be understood in terms of the motion we've taken as part of the public record.

All those in favor of granting the
variance on the basis so moved, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor.

(Alexander, Sullivan, Anderson,
Scott, Myers.)

(9:30 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair calls case No. 9852, 288 Norfolk Street. Is there anyone here wishing to be heard on that?

You know the drill. So why don't you start.

ATTORNEY ADAM BRAILLARD: Thank you, members of the Board. Adam Braillard for the applicant Clear Wire, LLC an affiliate of Sprint Nextel. With me is Kaleem Kahn. First name is Kaleem, K-a-l-e-e-m and last name is Kahn, K-a-h-n for the record. And Kaleem is a representative of the applicant's radio frequency department since any radio frequency technical questions that the Board may have. We're here in connection with a Special Permit to modify an existing wireless communications facility on the rooftop of the building located at 284-288 Norfolk Street

within the C-1 Zoning District. Just going right into the proposal. The Board has the application, hopefully has the application package in front of them. And if you don't, I think I have one or two extra copies of plans if you need them.

SLATER ANDERSON: I'll take a copy.

CONSTANTINE ALEXANDER: Just let me interrupt you for one second. Have you seen the letter from the Planning Board?

ATTORNEY ADAM BRAILLARD: I have. We'll get into that real quick or we can skip all this if you like.

CONSTANTINE ALEXANDER: It's up to you.

ATTORNEY ADAM BRAILLARD: Basically what we're doing is, our proposal here is to install two, one-foot dish antennas and two, half-inch coax cable. The two dish antennas are proposed to be located on the existing penthouse near existing panel antennas. Again, they're going to be one foot in

diameter. And the locations are going to be -- one's going to be located on the back side of the penthouse, that faces the roof, the large part of the rooftop. And the second is going to be facing toward the east. Again, facing toward some of the larger part of the rooftop.

The two half-inch coaxial cables are going to be installed in one conduit that will run along the same route that the existing -- in the -- this is the bird's eye view here. That the existing cable tray runs. Photo sims here we have as well. That's the installation in a nutshell. And I'll be happy to go into that a lot more.

CONSTANTINE ALEXANDER: Why don't you go through some of the things that we have to find in order to give you relief.

ATTORNEY ADAM BRAILLARD: Sure. The reason why we're in front of the Board is because the by-law requires that if the applicant wants to install a facility, or

substantially change a facility, they need the relief of a Special Permit before the Zoning Board, excuse me, the Board of Zoning Appeals prior to a recommendation from the Planning Board. The Clear Wire service that provides high speed broadband wireless internet access to its customers through technology called WI-MAX. It's different than WI-FI. WI-FI is a hotspot area where you can get onto the internet at Starbucks or elsewhere, it's not secure, it's not as fast as this, and it's not as -- it's not -- it's not considered as broadband as this. The installation requires WI-MAX antennas as well as these dish antennas. The WI-MAX antennas are there from prior installations of Sprint, Nextel, and collectively Sprint-Nextel and this, this application is just for the two, one-foot dish antennas. Those are what we call the back hall antennas. What that provides is the -- it optimizes the WI-MAX system. So what we equate the each

one-foot dish antenna to is approximately 200 T1s. So they have the bandwidth of approximately 200 T1 lines. So if we couldn't put the back hall dish antennas at the location, we would have -- to be equal to those we would have to run 200 T1 lines and that's pretty much impossible. So what that does is it optimizes the WI-MAX facility and it provides a more reliable service for that facility. That's the need. That's why we're here.

If this Board hasn't heard of Clear Wire before, it's an affiliate of Sprint-Nextel. They're backed by companies like Intel, Google.

CONSTANTINE ALEXANDER: Are you licensed --

ATTORNEY ADAM BRAILLARD: Licensed by the FCC, that's correct. And funded as I was saying, Intel, Google, Comcast, Time-Warner. Everyone was interested by this technology. I went into the

differences between WI-MAX and WI-FI and we're WI-MAX.

BRENDAN SULLIVAN: And typically most of all of the antenna that we've been asked to approve in years past have all been for telecom. Now this is sort of the next which is on wireless internet. GPS -- does GPS come into play in this type of device at all? Or maybe not this particular one, but whereas before everything was all for telephone. This now is for internet and other -- well, just internet; is that correct, wireless?

ATTORNEY ADAM BRAILLARD: This is for to have a broadband internet application.

BRENDAN SULLIVAN: Not separate from telephone?

ATTORNEY ADAM BRAILLARD: Also on your phone.

BRENDAN SULLIVAN: Okay.

ATTORNEY ADAM BRAILLARD: So it is --

BRENDAN SULLIVAN: A new generation of phones that you can dial up and talk, take pictures, and check your e-mails?

ATTORNEY ADAM BRAILLARD: Right. And I think you've seen maybe some of the ads for the new future 4G Network. That's this.

BRENDAN SULLIVAN: Okay. Does that have 50 different options in this little -- okay.

ATTORNEY ADAM BRAILLARD: Right.

BRENDAN SULLIVAN: Which is all again internet based?

ATTORNEY ADAM BRAILLARD: Right.

BRENDAN SULLIVAN: Okay. Just a point of information that's all.

ATTORNEY ADAM BRAILLARD: Yes, thank you. The applicant does feel that it does -- we comply with the Special Permit criteria set forth in Section 10.43 of the by-law. We're not --

CONSTANTINE ALEXANDER: Before we get there, though.

ATTORNEY ADAM BRAILLARD: Sure.

CONSTANTINE ALEXANDER: Well, part of this. This property, site is located in a residential district.

ATTORNEY ADAM BRAILLARD: That's right.

CONSTANTINE ALEXANDER: And under our Zoning Law we have to make -- it says we're supposed to reference a facility in any residential zoning district, we have to make certain findings. One is the extent to which there is a demonstrated public need for the facility at the proposed locations. Speak to why there is a demonstrated public need for the facility at that location.

ATTORNEY ADAM BRAILLARD: Sure.

The -- we can start with the Telecommunications Act which provides that the customers that have wireless internet, that have wireless telecommunication services allow to -- or the companies that provide those services are allowed to

compete. And this service which is overlaid on to the Sprint network is allowed to compete with not only other wireless telephone services, but also land line services and internet services. So what the applicant is doing here is providing a service that will compete with Comcast.

CONSTANTINE ALEXANDER: Why is there a public need for that?

DOUGLAS MYERS: Right, I didn't hear an answer.

ATTORNEY ADAM BRAILLARD: We're getting there. Trying to at least.

The need is the idea of competition as it drives down prices and it creates better product. And that's the need. We would allow users on their phones to access the internet if they needed help with directions, if they needed to know where things were and at broadband pace. So not only would they call 9-1-1 if they had to or saw an accident or were in one, they'd also be able to access

internet services if they needed, if they were lost or needed help through internet services. So that's, that's our need and that's why.

CONSTANTINE ALEXANDER: The public's need. The public need is we have a need for the better and more comprehensive access to internet and phones and the like, and your technology, through this facility, will provide that to the public.

ATTORNEY ADAM BRAILLARD: That's correct. Right.

CONSTANTINE ALEXANDER: Okay. And then we have to find that -- we have to deal with the fact that are there alternative functionally suitable sites in a non-residential areas. And we have to --

ATTORNEY ADAM BRAILLARD: Right.

CONSTANTINE ALEXANDER: You have to deal with the fact is there, do they -- does it exist, alternative functional suitable sites in non-residential location.

ATTORNEY ADAM BRAILLARD: The quick answer is no. Part of the answer, the addition of this -- the proposal is part of an existing facility. So it needs to be added at that facility.

CONSTANTINE ALEXANDER: And for the record, this facility has other antenna and the like, some of which have been approved by this Board before.

ATTORNEY ADAM BRAILLARD: That's correct. There's three other -- two other carriers exclusive of Sprint.

BRENDAN SULLIVAN: So you can piggy back and make use of some of the other equipment there?

ATTORNEY ADAM BRAILLARD: That's right.

BRENDAN SULLIVAN: For this facility.

ATTORNEY ADAM BRAILLARD: Right. I'm going to be in front of this Board again probably multiple times with this type of

installation. And I knew this application is kind of be --

CONSTANTINE ALEXANDER: It's a dry run.

ATTORNEY ADAM BRAILLARD: -- is complicated to try to explain what we're doing. I'll get better at it. That's correct.

BRENDAN SULLIVAN: You can go through the transcripts and you'll hear the questions and then you'll have your answers.

DOUGLAS MYERS: Let's hope we get better, too.

ATTORNEY ADAM BRAILLARD: That's right. We're piggy backed on the Sprint network. So we're going to be using existing Sprint antennas as well as the existing -- practically the existing -- where there's shelters on rooftops, we'll be going inside those Sprint shelters. In this particular case we're -- there's no need to add any additional equipment, I don't

believe. Any additional radio equipment. We're just going to be tying the conduit into the existing radio room or equipment room that's on the roof.

BRENDAN SULLIVAN: So if there were another non-residential location, it would be a total new installation which would be done in a very haphazard and chaotic fashion as this one has been done in?

ATTORNEY ADAM BRAILLARD: That's right.

CONSTANTINE ALEXANDER: Took the words right out of your mouth.

THOMAS SCOTT: Would they remove the old equipment as a result of this installation?

ATTORNEY ADAM BRAILLARD: No.

THOMAS SCOTT: None of the existing equipment can be removed?

ATTORNEY ADAM BRAILLARD: That's correct.

CONSTANTINE ALEXANDER: We also

have to -- or you have to deal with us on the question of the character of prevailing uses in the area, and the prevalence of other existing mechanical systems and equipment carried on or above the roof of nearby structures.

ATTORNEY ADAM BRAILLARD: Right.

CONSTANTINE ALEXANDER: I guess I can help you as a start. This is zoned residential, this is not necessarily a residential area.

ATTORNEY ADAM BRAILLARD: That's right. That's our understanding.

CONSTANTINE ALEXANDER: There are a number of non-residential uses in that area.

ATTORNEY ADAM BRAILLARD: Right.

CONSTANTINE ALEXANDER: I would assume some of those have mechanical systems and equipment carried on or above the roof of nearby structures, you're not unique in this regard?

ATTORNEY ADAM BRAILLARD: That's

correct.

CONSTANTINE ALEXANDER: And the Zoning Law reading from footnote 49 of whatever this is, Section something or other.

SEAN O'GRADY: I think it's 432G.

CONSTANTINE ALEXANDER: Thank you. 432G. It says that you can only -- Board of Zoning Appeal shall grant a Special Permit to erect a facility in a residential zoning district only upon a finding that non-residential uses predominate in the vicinity of the proposed facility's location, and that the telecommunication facility is not inconsistent with the character that does prevail in the surrounding neighborhood. And I think we've already touched on this. It's not an area -- it's not Brattle Street where you're going to put this structure. There's a lot of non-residential uses in that area.

ATTORNEY ADAM BRAILLARD: Right. And I know the Board is in the precedent

making, but I want to say in the past three applications that's been before the Board, they have found that the non-residential uses do prevail in the area. And I have a map and we can go through that if the Board --

CONSTANTINE ALEXANDER: We actually made that finding in earlier cases involving this very site. I don't think we need to go through it again.

ATTORNEY ADAM BRAILLARD: Right.

CONSTANTINE ALEXANDER: I don't think we need to go through it again.

ATTORNEY ADAM BRAILLARD: Across the street, across from Norfolk Street there was a DPW yard.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY ADAM BRAILLARD: So essentially this parcel is not only itself is commercial and retail, it's also surrounded by, at least on three sides, by -- two sides by DPW and one side by a major thoroughfare that would be a non-residential roadway. As

well as that part of Norfolk Street only allows access to non-residential uses. So we would determine that that part of Norfolk Street is also not residential.

DOUGLAS MYERS: Can you shed any light on the nearest residential uses?

ATTORNEY ADAM BRAILLARD: Sure. There are residential uses to the east of the facility.

DOUGLAS MYERS: What nature and about what distance if you know?

ATTORNEY ADAM BRAILLARD: I don't know the exact distances.

DOUGLAS MYERS: Approximately in terms of blocks?

ATTORNEY ADAM BRAILLARD: It's the next block. So there's probably -- there are abutting residential uses to this, to this parcel to the east.

CONSTANTINE ALEXANDER: Let the Chair read into the record right now a letter or a memo we received from the Planning Board

dated October 22nd. "The Planning Board reviewed the installation of this location -- referring to the one before us now -- the new installation of a round BH antenna on the facade of the building should be finished in a color and material to blend with the wall. This installation should be low enough to not break the edge of the top of the stack and be mounted as tightly to the wall as possible to minimize shadows. The existing antenna on the Hampshire Street facade belonging to this applicant is very chaotic and in the opinion of the Board does not meet expectations of the conditions listed in footnote 49 of the Zoning Ordinance or the conditions of Special Permit No. 8223 granted in 2000. The Planning Board suggests that the Board of Zoning Appeal does grant the new Special Permit, a condition be attached that the proponent's existing installation be brought into compliance."

As I see it there's three points they're

making in here, and let's take them one at a time.

ATTORNEY ADAM BRAILLARD: Sure.

CONSTANTINE ALEXANDER: The new installation should be finished in the color and material to be blended with the wall. Are you proposing to do that? And it looks like --

ATTORNEY ADAM BRAILLARD: Yes.
Yes.

CONSTANTINE ALEXANDER: So that one you've satisfied.

THOMAS SCOTT: The photo simulations show the white dish.

ATTORNEY ADAM BRAILLARD: They probably do. And as a condition for approval we would actually paint the dishes. It's not going to affect any of the radio frequency.

DOUGLAS MYERS: On all sides? Because I noticed frankly in the simulations the front was white and the sides were some other color. But from the side it looked

like grey. It just seemed like an inconsistency I was going to question you about. I'm not being frivolous when say that treat the color on all sides and on every aspect angle.

ATTORNEY ADAM BRAILLARD: No.

CONSTANTINE ALEXANDER: One of the problems by the way, and just parenthetically often we sit here and you in good faith and you, sir, agree with what we promulgate, and then it goes back to some other body in your organization who wasn't here and does what he or she feels like doing. And maybe that's the third issue that the Planning Board has raised. I implore you to make sure that when we -- the conditions we impose on this relief if granted, we made it known to the people in the organization who are going to put that antenna up there.

ATTORNEY ADAM BRAILLARD: I will do everything that I can to make sure that happens. I think it's in -- it's absolutely

in the client's best interest not only because of this application, but as I said --

CONSTANTINE ALEXANDER: You're going to be here before us again.

ATTORNEY ADAM BRAILLARD: It's most likely going to be me. And I don't want to come back before this Board if we've done a bad job of installing.

CONSTANTINE ALEXANDER: That's the first of the Planning Board? Thank you.

And it says the installations should be low enough to not break the edge of the top of the stack and be mounted as tightly to the wall as possible to minimize shadows.

What do the photo sims show in that regard?

SLATER ANDERSON: Well, I have a question about that. You know, you're showing here a dish and a large pole. The photo sims shows a dish. I don't see any pole replicating this large pole that this is mounted on --

ATTORNEY ADAM BRAILLARD: Right.

SLATER ANDERSON: -- on the photo sims. So I would say the photo sims are not consistent with the plans.

ATTORNEY ADAM BRAILLARD: I think that's accurate with respect to the --

CONSTANTINE ALEXANDER: That's also very troubling to me then, because I rely and I think the Board relies very heavily on the photo sims. And Slater's been perceptive in pointing that out.

ATTORNEY ADAM BRAILLARD: I think the installation of the pipe doesn't have to be as robust unless I'm missing something.

SLATER ANDERSON: These are the submitted plans.

ATTORNEY ADAM BRAILLARD: Right. We can reduce -- I think we can reduce the profile of that installation.

SLATER ANDERSON: It seems a little excessive in my opinion.

CONSTANTINE ALEXANDER: Well, you

know, I'm sorry, but I don't -- we've got to approve something subject to certain plans and photo sims before us. If what we have is not accurate, I'm not ready to vote on it tonight.

DOUGLAS MYERS: I think the solution is you go back to your superiors and get them to do it right.

CONSTANTINE ALEXANDER: And the third point with the Planning Board. I don't think we're ready to decide this case. Agree?

DOUGLAS MYERS: That's why I raise the points, and I think he's right. We do rely on this.

CONSTANTINE ALEXANDER: I think you need to continue this case as a case heard. Come back to us with accurate photo sims, at least consistent with the plans and with a response to each of the issues identified by the Planning Board. Either show how you're going to comply or if you're not, why not and

let us decide.

ATTORNEY ADAM BRAILLARD: Okay.

SLATER ANDERSON: Because, you know, I got to be honest. This is a one-foot dish?

ATTORNEY ADAM BRAILLARD: Right.

SLATER ANDERSON: That makes this out to be about a six-foot pole on the side of the structure there in the penthouse. Which, it seems excessive, but it's not shown on there. So there needs to be some consistency between the submissions for enforcement purposes.

ATTORNEY ADAM BRAILLARD: I understand that. I think the applicant agrees. I would ask if the Board would -- I know that this application requires the Board make a number of different findings. I would ask since we're here and everyone's here, that the Board can at least make some findings with respect to the Special Permit or --

CONSTANTINE ALEXANDER: I'm going

to resist that. Let me suggest to you that I think you can -- unofficially or at least at the sense of the Board that we saw no -- you heard no opposition to the findings that we have to make. But I think you should assume that we're going to be able to make those findings. But I'm not ready to -- it's only an assumption you'll have to make. I'm not ready to make a partial decision on this. I want to see a whole, I want to see a complete and accurate package. The photo simulations that comply and be consistent with the plans and I want the issues of the Planning Board addressed. And then at that time we'll make all the necessary findings that we have to make.

ATTORNEY ADAM BRAILLARD: Can we just continue with the issues of the Planning Board just so I'm clear?

CONSTANTINE ALEXANDER: Sure.

ATTORNEY ADAM BRAILLARD: So the first one --

CONSTANTINE ALEXANDER: Do you have a copy of this by the way?

ATTORNEY ADAM BRAILLARD: I did. I received it today.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ADAM BRAILLARD: The second issue was with respect to the penetration -- exceeding the penetration to the sky or exceeding the height of the penthouse. And --

CONSTANTINE ALEXANDER: And the third?

ATTORNEY ADAM BRAILLARD: We'll talk about that next time.

CONSTANTINE ALEXANDER: The opinion of the Planning Board, I don't know if it's our opinion, that you're not in compliance -- your client is not in compliance with the conditions of the Special Permit we granted in 2000. And you can address that. Maybe you disagree with the Planning Board. Maybe we will when we have

all the facts. That's the third point made by the Planning Board.

ATTORNEY ADAM BRAILLARD: Sure. And I guess I need direction in the Board there. I mean the applicant is absolutely more than willing to work with the Board or -- and/or Sean and Ranjit and the Building Department to make sure that complies.

BRENDAN SULLIVAN: Do we have a copy of the original --

DOUGLAS MYERS: Could we ask Sean to look into that? Not with respect to enforcement but to ascertaining facts.

BRENDAN SULLIVAN: There must be some language in the condition that they did not comply with.

ATTORNEY ADAM BRAILLARD: I have the 2000 decision here and we don't have to go through it now. It's part of the application.

CONSTANTINE ALEXANDER: Perhaps you might want to go before the Planning Board and

see why, you know, and get some background. I assume you didn't appear before them before.

ATTORNEY ADAM BRAILLARD: I spoke with Liza Paden extensively about the application, and I don't believe that the Planning Board actually formally took it up at a meeting, but from an administrative review --

CONSTANTINE ALEXANDER: It says October 22nd which is today's date.

ATTORNEY ADAM BRAILLARD: Right.

CONSTANTINE ALEXANDER: I mean, I don't recall imposing any conditions other than the usual ones we impose about minimizing, you know, the visual impact and removing them if they stop using --

BRENDAN SULLIVAN: Well, except that possibly be submittals. Again, visuals may be inconsistent.

SLATER ANDERSON: We don't have that in the file.

CONSTANTINE ALEXANDER: They're not in the file.

SLATER ANDERSON: Are these your units, these silver ones here?

ATTORNEY ADAM BRAILLARD: Those are -- those are Sprint units, I believe, yeah.

SLATER ANDERSON: So those are inconsistent with the footnote 49 as far as color and --

BRENDAN SULLIVAN: It wouldn't be consistent with the photo simulations, applications and plans submitted. So maybe they are in -- and I sat on it. I was the Chair at the time. So, you'd have to drag out that -- this is the language, but I think you'll have to drag out the photo simulations and the plans submitted, because they may be adverse to what was done.

CONSTANTINE ALEXANDER: You don't have a copy certainly in the file. We don't have the files here tonight. If you want to

pull out the old file of that 2000 case and look at the photo sims and plans that were submitted to us, and see, and prepare them to what's on the building now and see what the issues that the Planning Board has.

Obviously the Planning Board. I shouldn't say obviously. I believe the Planning Board has done that, and they've come to some different conclusions.

BRENDAN SULLIVAN: Les Barber would be the guy to contact. He may have well been the author of that, or at least would know what that is about, Community Development. And he could probably enlighten you either over the phone or going deeper than that would be to pull out the photo simulations and the plans submitted.

ATTORNEY ADAM BRAILLARD: Okay.
And I will --

BRENDAN SULLIVAN: As far as that issue is concerned on that particular item.

ATTORNEY ADAM BRAILLARD: So we can

better understand that.

BRENDAN SULLIVAN: Right. So you know exactly. And, again, you may come back and say no, we did do it according to what was submitted and whatever, you know.

ATTORNEY ADAM BRAILLARD: Let me ask this, and maybe this is a conversation we can have off the record. But with respect -- and let me start by saying the applicant is willing to work with the city.

CONSTANTINE ALEXANDER: Right.

ATTORNEY ADAM BRAILLARD: And if that is not in fact the way it should be per the application, this is back in 2000, and I believe there was a 2003 application and decision as well, which maybe the two antennas that you were referring to, Mr. Anderson, how does that affect this application? I mean, isn't that more of a compliance question that the department --

CONSTANTINE ALEXANDER: That's a very fair point. I think the way it affects

it, however, though is to the extent -- we've had this issue before in other unrelated cases. You know, if someone comes before us for relief, and they've gotten relief earlier from us, subject to conditions, and they don't -- and they have not complied with those conditions, we're not very predisposed to grant relief the next time around, until we know that they brought it -- the other case is brought in compliance. It's a case to be continued the first case tonight on Prentiss Street. So I think we would want to know, you know, we want to make sure that you are in compliance with the old one before we're going to give new relief. Because we are going to impose conditions. We don't compose conditions for the hell of it. We want to make sure those conditions are adhered to.

SLATER ANDERSON: Can I make a request and this is so -- it's important obviously in our deliberations to see these

penthouses and these structures clearly. I find sometimes that these photo simulations, the resolution on these things, if I were -- if I were standing in the street looking at this I would need glasses because I can't see. So I know that somebody's probably has it and maybe the degradation from copying. But I would like to think that the copy that ends up in the file, and maybe that one's better than the one -- this is I think this is yours. But one of the issues here is about the chaotic nature of the penthouse. I see wires, what appear to be wires, but I can't make them out very well on this. And granted I understand step -- getting back far enough so you can get a good view of -- clear view of the penthouse versus being close to it, but, you know, maybe a telephoto lens, something that captures what the penthouse really looks like clearly. And it can be from street level because that's where people are going to see it. But this

isn't -- I would -- if that's a wire hanging, I would be able to clearly see that wire from the street. I can't see it in this photo. But you can see there's some loose wires hanging down which I think adds to the chaotic spirit of the structure and the units. And there seems to be a pole, a grey pole without anything on it. I don't know if that's one of your installations. I mean, this is all -- I think it's the point of what a Planning Board is getting at. But I would like to see, you know, some sharper resolution.

CONSTANTINE ALEXANDER: That's a point very well taken in my judgement. And I'm going to strongly endorse that.

Photo simulations at least to me are crucial in these cases. Unless we have accurate and well defined ones, it makes our ability to -- that's yours?

SLATER ANDERSON: I might have just handed you the plans.

CONSTANTINE ALEXANDER: The point being that it's crucial what we do. To the extent we have photo simulations that don't match the plans or even they're poor resolution that makes our job impossible.

So, I think we're ready for a motion. This will be a case heard so we have to continue to a time when all five of us can be present.

First of all, what time do you have in mind?

SEAN O'GRADY: The last available hearing for the year is December 17th.

CONSTANTINE ALEXANDER: Are we all available for the 17th?

DOUGLAS MYERS: I'm not available.

CONSTANTINE ALEXANDER: The next one is January.

BRENDAN SULLIVAN: You can't squeeze them the previous one in December?

SLATER ANDERSON: The 3rd? Because I'm here for two already.

DOUGLAS MYERS: As I am already.

SEAN O'GRADY: It's up to you.
You've already got three.

CONSTANTINE ALEXANDER: We can go to
four.

BRENDAN SULLIVAN: It should not
take --

ATTORNEY ADAM BRAILLARD: And it
still gives us enough time.

CONSTANTINE ALEXANDER: That works
for you.

Okay. The Chair moves that this case
be continued as a case heard until seven p.m.
on December 3rd on the condition that the
petitioner sign a waiver of notice of time to
be decided, to decide the case.

On the further condition that the sign
on the structure be changed to reflect the new
December 3rd date.

And on the final condition that new and
improved photo simulations, and if
necessary, revised plans be submitted to us

no later than five p.m. on the Monday before December 3rd. Okay? That's a show stopper. If you don't have those new photo sims there at that time, you just bring them here that night, we're not going to hear the case. We're very clear. And I do want to again endorse what Slater has said, let's get better quality photo simulations. Okay?

All those in favor of continuing the case on that basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: In favor.

BRENDAN SULLIVAN: Changing the sign.

CONSTANTINE ALEXANDER: I think I did mention the change of the sign.

DOUGLAS MYERS: One point on that that has nothing to do with the decision. In terms of any issues that come up relating to compliance, are we going to rely on the contact of Braillard?

ATTORNEY ADAM BRAILLARD: Yes.

DOUGLAS MYERS: With Mr. Braillard with the Planning Board or are we going to ask --

CONSTANTINE ALEXANDER: Well, at the end of the day it's Mr. O'Grady's office that decides on compliance, whether they comply with the Special Permit.

DOUGLAS MYERS: In terms of information about whether it was would be premature to address compliance as such. But information about what exists there and whether there appears to be compliance or not, I mean --

CONSTANTINE ALEXANDER: I think Mr. Braillard is going to report back to us and I assume the Planning Board will be in further contact with us. I assume. I don't know. But if you're going to --

BRENDAN SULLIVAN: It would behoove counsel to get to the bottom of it and communicate that to Sean so that there's communication --

DOUGLAS MYERS: Sean can take it from that point.

BRENDAN SULLIVAN: -- so that they both understand exactly what the issue is. And if Sean needs to follow up it up with whatever, anyhow.

DOUGLAS MYERS: That's fine.

CONSTANTINE ALEXANDER: Did we take a vote? I forget. All those in favor --

DOUGLAS MYERS: Yes.

CONSTANTINE ALEXANDER: Case is continued as a case heard. Don't go too far.

(10:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Thomas Scott, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair calls case No. 9853, 20 Sidney Street. Is there anyone here wishing to be heard on that matter?

ATTORNEY ADAM BRAILLARD: Yes. Just before we start that, does the Board want to open the hearing on that?

CONSTANTINE ALEXANDER: No. I just want to start the record and I'm going to go immediately to the notice issue.

ATTORNEY ADAM BRAILLARD: Great. Thank you, members of the Board, Adam Braillard for the applicant Clear Wire.

CONSTANTINE ALEXANDER: Thank you.

Mr. Braillard, it's been brought to the attention of the Board by myself and Mr. O'Grady in visiting the site that the sign that's required to be posted in accordance with the Zoning By-Law was not posted on 20 Sidney Street, but not due I think to no failure on your part or your client's part, but by the owner of the building, it was posted at the wrong location. And as a result of that, we are not in a position to hear the case tonight. We're going to have to continue it as a case not heard. So we're not restricted to having the five of us there. So, I don't think we have any choice notice matter but to continue the case given the fact there was not proper posting.

What day were we continue the case to?

SEAN O'GRADY: That would be the 17th, December 17th.

CONSTANTINE ALEXANDER: The Chair moves that case No. 9853 be continued until

seven p.m. on December 17th as a case not heard, on the condition that the petitioner sign a waiver of notice at the time to decide the case. I think that waiver having already been signed.

SEAN O'GRADY: That's one. And here's the other one.

CONSTANTINE ALEXANDER: And on the further condition that the sign this time be posted at 20 Sidney Street, and that the sign be modified to show the new December 17th hearing date.

All those in favor -- and to the extent by the way, if you want to modify your plans or photo simulations with respect to this matter, you must do so and have them in the public file by no later than by five p.m. on the Monday prior.

All those in favor of continuing the case on that basis, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in

favor. Case continued. See you in
December.

ATTORNEY ADAM BRAILLARD: Thank
you.

(Whereupon, at 10:05 p.m., the
meeting adjourned.)

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a
Certified Shorthand Reporter, the
undersigned Notary Public, certify that:

I am not related to any of the parties
in this matter by blood or marriage and that
I am in no way interested in the outcome of
this matter.

I further certify that the testimony
hereinbefore set forth is a true and accurate
transcription of my stenographic notes to the
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set
my hand this 3rd day of November 2009.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
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